



Amendment No. 1
to
Contract No. GA190000019
for
Office Furniture, Installation and Other Related Services for Austin Bergstrom
International Airport ("ABIA")
Between
Shelton Keller Group, Inc ("SKG")
and the
City of Austin, Texas

- 1.0 The City hereby amends the referenced Contract to revise the ship to or delivery location for the Department of Aviation Maintenance Warehouse. Effective March 1, 2020 the Department of Aviation Maintenance Warehouse will relocate to the following address:

Department of Aviation
Maintenance Warehouse
9401 Cargo Avenue, Suite 700
Austin, TX 78719

To ensure shipments are made to the correct address, the Contractor shall use the "Ship To" address listed on the City purchase document.

- 2.0 The total contract authorization amount is unchanged and recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 02/13/2019- 02/12/2022	\$16,550,000.00	\$16,550,000.00
Amendment No.1: ABIA delivery address change	\$0.00	\$16,550,000.00

- 3.0 MBE/WBE goals were not established for this Contract.
- 4.0 By signing this Amendment, the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

Signature & Date: Megan Williams 3/31/2020

Printed Name: Megan Williams
Authorized Representative

Shelton-Keller Group Inc
6301 E Stassney Lane
Building 9-100
Austin, Tx 78744-3069
Alias: Shelton-Keller Group Inc Aka SKG
Contact: Diana Keller

Signature & Date: Linell Goodin-Brown Digitally signed by Linell Goodin-Brown
Date: 2020.04.29 08:40:00 -05'00'

Printed Name: Linell Goodin Brown, BA
Title: Procurement Supervisor

City of Austin
Purchasing Office
124 West 8th Street
Austin, TX 78701
512-974-2959
Linell.Brown@austintexas.gov



Amendment No. 1
to
Contract No. GA190000020
for
Office Furniture, Installation and Other Related Services for Austin Bergstrom
International Airport ("ABIA")
Between
Workplace Resource, LLC
and the
City of Austin, Texas

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BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

Signature & Date: 4/3/2020

Printed Name: Shea McClanahan / Account manager
Authorized Representative

Signature & Date: Linell Goodin-Brown

Digitally signed by Linell
Goodin-Brown
Date: 2020.04.29 08:43:19 -0500

Printed Name: Linell Goodin Brown, BA
Title: Procurement Supervisor

Workplace Resource LLC
1717 W 6th St Ste 190
Austin, Tx 78703-4786
Alias: Workplace Resource

City of Austin
Purchasing Office
124 West 8th Street
Austin, TX 78701
512-974-2959
Linell.Brown@austintexas.gov



Amendment No. 1
to
Contract No. GA190000020
for
Office Furniture, Installation and Other Related Services for Austin Bergstrom
International Airport ("ABIA")
Between
Workplace Resource, LLC
and the
City of Austin, Texas

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Printed Name: Shea McClanahan / Account manager
Authorized Representative

Signature & Date:

Printed Name: Linell Goodin Brown, BA
Title: Procurement Supervisor

Workplace Resource LLC
1717 W 6th St Ste 190
Austin, Tx 78703-4786
Alias: Workplace Resource

City of Austin
Purchasing Office
124 West 8th Street
Austin, TX 78701
512-974-2959
Linell.Brown@austintexas.gov

**SUPPLEMENT TO COOPERATIVE AGREEMENT
CONTRACT BETWEEN THE CITY OF AUSTIN ("City")
AND**

**Workplace Resource, LLC
for**

**Office Furniture, Installation and Other Related Services for Austin Bergstrom
International Airport ("ABIA")
MA 8100 GA190000019**

This Contract is between Workplace Resource, LLC having offices at 1717 West 6th St., Suite 190, Austin, Texas 78703, and the City, a home-rule municipality incorporated by the State of Texas, and is effective on February 7, 2019 for the purchase of office furniture from the following cooperative programs: US Communities, Texas Multiple Awards Schedule (TXMAS), Texas SmartBuy, BuyBoard, The Cooperative Purchasing Network (TCPN), GSA Advantage, National Joint Powers Alliance (NJPA) (now doing business as Sourcewell), and National IPA.

1.1 This Contract is composed of the following documents, in the following order of precedence:

- 1.1.1 This contract cover;
- 1.1.2 Exhibit A, Supplemental Terms;
- 1.1.3 Exhibit B, Non-Discrimination and Non-Retaliation Certification;
- 1.1.4 Exhibit C, Non-Suspension or Debarment Certification;
- 1.1.5 Exhibit D, Contractor's Offer for Herman Miller furniture

1.2 Quantity. There is no minimum guaranteed quantity of goods or services to be purchased pursuant to this Contract.

1.3 Scope of Work.

- 1.3.1 Contractor Obligations. The Contractor shall fully and timely deliver, install and set up office furniture and provide all deliverables described herein and in the Contractor's Offer in Exhibit D in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State and local laws, rules, and regulations. Manufacturers may be added as additional exhibits.

1.4 Term of Contract. The term of this contract shall be up to five (5) years.

1.5 Right to Assurance. Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

1.6 Default. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under the "Right to Assurance paragraph herein, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by Contractor to the City.

- 1.7 **Termination for Cause.** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.
- 1.8 **Termination Without Cause.** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.
- 1.9 **Fraud.** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.
- 1.10 **Compensation.** The Contractor shall be paid as indicated in Exhibit B upon successful completion of the Scope of Work as indicated Exhibit B, a total Not-to-Exceed amount of \$16,550,000.00, including all fees and expenses, for the initial Contract term and each approved extension option, to be shared by all Contractors.
- 1.11 **Cooperative Program Contracts.** Exhibits shall refer to the Cooperative Program Contract for each Delivery Order. The Cooperative Program Contract shall be valid at the time that the Delivery Order is placed. The Contractor may offer the City products and services under this Contract from the following Cooperative Programs Contracts: US Communities, Texas Multiple Awards Schedule (TXMAS), Texas SmartBuy, BuyBoard, GSA Advantage, National Joint Powers Alliance (NJPA) (now doing business as Sourcwell), and National IPA. Any additional Cooperative Program Contracts shall be added through an amendment to add additional Exhibits. In the event that terms and conditions are not incorporated into or covered by the Cooperative Program Contract, then the City's Standard Definitions (Section 0100) and Standard Purchase Terms and Conditions (Section 0300) apply.

This Contract (including any Exhibits) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be altered,

amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

In witness whereof, the City has caused a duly authorized representative to execute this Contract on the date set forth below.

WORKPLACE RESOURCE, LLC

SIMON NAVEJAR

Printed Name of Authorized Person



Signature

CFO

Title

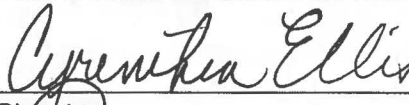
02.06.19

Date

CITY OF AUSTIN

Cyrenthia Ellis

Printed Name of Authorized Person



Signature

Procurement Manager

Title

2.12.19

Date

- Exhibit A – Supplemental Terms
- Exhibit B – Non-Discrimination and Non-Retaliation Certification
- Exhibit C – Non-Suspension or Debarment Certification
- Exhibit D – Contractor's Offer

Exhibit A
Supplemental Terms

1. **Designation of Key Personnel.** The Contractor's Point of Contact for this engagement shall be as specified in Exhibit A. The City's Point of Contract for the engagement shall be Cyrenthia Ellis; Phone: 512-974-1709; Email: cyrenthia.ellis@austintexas.gov.

2. **Invoices.**

2.1 Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. Invoices shall be mailed or emailed to the City's point of contact specified for each Delivery Order or Purchase Order.

Invoices shall be emailed to the email address below:

	City of Austin
Department	Department of Aviation
Attn:	Accounts Payable
Address	3600 Presidential Blvd. Suite 411
City, State Zip Code	Austin, Texas 78719
	abia.invoices@austintexas.gov

2.2 Invoices shall include the Current Commercial Price List and the Discount from the Current Commercial Price List. Fees for installation, delivery and set-up shall be listed on a separate line item. Time billed for labor shall be limited to hours actually performed at the work site.

2.3 Invoices shall include information identifying if the furniture items or parts purchased are new, used or refurbished.

2.4 Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual costs without markup.

2.5 Federal Excise Taxes, State taxes, or City sales tax must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

Exhibit A
Supplemental Terms

3. **Payment.**

3.1 All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.

3.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

3.3 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

3.3.1 delivery of defective or non-conforming deliverables by the Contractor;

3.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;

3.3.3 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

3.3.4 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

3.3.5 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or

3.3.6 failure of the Contractor to comply with any material provision of the Contract Documents.

3.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

3.5 Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

4. **Non-Appropriation.** The awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to

Exhibit A Supplemental Terms

the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non- or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

5. Security

5.1 **Airport Security**: Access to the premises must be strictly controlled. Officers, employees, or agents of the Contractor shall never enter a restricted or operational area of the airport without the express permission of ABIA or any governmental bodies having jurisdiction. Contractor assumes full liability from any such unauthorized incursions.

5.2 While performing work on City property, Contractor's employees shall wear uniforms with the Contractor's name clearly displayed on the shirt and/or company issued photo identification badges at all times when in the building. Failure to do so may be cause for removal of Contractor Personnel from the worksite, without regard to Contractor's schedule.

5.3 The Contractor shall comply with all other security requirements imposed by the City and shall ensure that all employees and subcontractors are kept fully informed as to these requirements.

6. Equal Opportunity

6.1 **Equal Employment Opportunity**: No Contractor or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit C. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

6.2 **Americans with Disabilities Act (ADA) Compliance**: No Contractor, or Contractor's agent shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

7. Audits and Records

7.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

Exhibit A Supplemental Terms

7.2 Records Retention:

7.2.1 For purposes of this subsection, a Record means all books, accounts, reports, files, and other data recorded or created by a Contractor in fulfillment of the contract.

7.2.2 All Records are the property of the City. The Contractor may not dispose of or destroy a Record without City authorization and shall deliver the Records, in all requested formats and media, along with all finding aids and metadata, to the City at no cost when:

7.2.2.1 requested by a director or an authorized City employee; or

7.2.2.2 the contract is completed or terminated.

7.2.3 The Contractor shall retain all Records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer.

7.3 The Contractor shall include sections A and B above in all subcontractor agreements entered into in connection with this Contract.

8. Interested Parties Disclosure

As a condition to entering the Contract, the Business Entity constituting the Offeror must provide the following disclosure of Interested Parties to the City prior to the award of a contract with the City on Form 1295 "Certificate of Interested Parties" as prescribed by the Texas Ethics Commission for any contract award requiring council authorization. The Certificate of Interested Parties Form must be completed on the Texas Ethics Commission website, printed, and signed in front of a notary by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury. The City will submit the "Certificate of Interested Parties" to the Texas Ethics Commission within 30 days of receipt from the successful Offeror. The Offeror is reminded that the provisions of Local Government Code 176, regarding conflicts of interest between the bidders and local officials remains in effect. Link to Texas Ethics Commission Form 1295 process and procedures below:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

9. **Insurance:** The following insurance requirements apply.

9.1 General Requirements.

9.1.1 The Contractor shall at a minimum carry insurance in the types and amounts indicated herein for the duration of the Contract and during any warranty period.

9.1.2 The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to Contract execution and within fourteen (14) calendar days after written request from the City.

Exhibit A
Supplemental Terms

9.1.3 The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

9.1.4 The Contractor shall not commence work until the required insurance is obtained and has been reviewed by City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

9.1.5 The City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

9.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

9.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be emailed to the City upon request and updates shall be mailed to the following address:

City of Austin
Purchasing Office
P. O. Box 1088
Austin, Texas 78767

9.1.8 The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.

9.1.9 If insurance policies are not written for amounts specified in Paragraph 6.1.2, Specific Coverage Requirements, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

9.1.10 The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

9.1.11 The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

9.1.12 The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

Exhibit A
Supplemental Terms

9.1.13 The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

9.1.14 The Contractor shall endeavor to provide the City thirty (30) calendar days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

9.2 **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

9.2.1 **Commercial General Liability Insurance.** The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries). The policy shall contain the following provisions and endorsements.

9.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

9.2.1.2 Contractor/Subcontracted Work.

9.2.1.3 Products/Completed Operations Liability for the duration of the warranty period.

9.2.1.4 Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage.

9.2.1.5 Thirty (30) calendar days' Notice of Cancellation, Endorsement CG 0205, or equivalent coverage.

9.2.1.6 The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.

9.2.2 **Business Automobile Liability Insurance.** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements:

9.2.2.1 Waiver of Subrogation, Endorsement CA0444, or equivalent coverage.

9.2.2.2 Thirty (30) calendar days' Notice of Cancellation, Endorsement CA0244, or equivalent coverage.

9.2.2.3 The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.

Exhibit A
Supplemental Terms

9.2.3 **Worker's Compensation and Employers' Liability Insurance.** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee. The policy shall contain the following provisions and endorsements:

9.2.3.1 The Contractor's policy shall apply to the State of Texas.

9.2.3.2 Waiver of Subrogation, Form WC420304, or equivalent coverage.

9.2.3.3 Thirty (30) calendar days' Notice of Cancellation, Form WC420601, or equivalent coverage.

9.3 **Endorsements.** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

10. **Contractor to Package Deliverables.** The Contractor will package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price. Unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.
11. **Shipment Under Reservation Prohibited.** The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.
12. **Title & Risk of Loss.** Title to and risk of loss of the deliverables shall pass to the City only when the City receives and accepts the deliverables.
13. **Right of Inspection and Rejection.** The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.
14. **No Replacement of Defective Tender.** Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any

Exhibit A
Supplemental Terms

non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.

15. **Special Tools & Test Equipment.** If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.
16. **Acceptance of Incomplete or Non-Conforming Deliverables.** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.
17. **Delays.** The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in Contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

18. **Warranty-Price.**

- 18.1 The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.
- 18.2 The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

Exhibit A
Supplemental Terms

- 18.3 In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.
19. **Warranty – Services.** The Contractor warrants and represents that all services to be provided to the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.
- 19.1 The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
- 19.2 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the acceptance date. If during the warranty period, one or more of the warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
- 19.3 If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.
20. **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:
- | | |
|--|--|
| <p>To the City:</p> <p>City of Austin, Purchasing Office</p> <p>ATTN: Kim Larsen, Contract Administrator</p> <p>P O Box 1088</p> <p>Austin, TX 78767</p> | <p>To the Contractor:</p> <p>Workplace Resource, LLC</p> <p>ATTN: Shea McClanahan, Business Development</p> <p>1717 W. 6th St., Suite 190</p> <p>Austin, TX 78703</p> |
|--|--|

Exhibit A
Supplemental Terms

21. **Confidentiality.** In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.
22. **Advertising.** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.
23. **No Contingent Fees.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.
24. **Gratuities.** The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.
25. **Prohibition Against Personal Interest in Contracts.** No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any

Exhibit A
Supplemental Terms

violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

26. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.
27. **Assignment-Delegation.** The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third-party beneficiaries to the Contract.
28. **Waiver.** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.
29. **Modifications.** The Contract can be modified or amended only in writing signed by both parties. No pre-printed or similar terms on any Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.
30. **Interpretation.** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.
31. **Dispute Resolution.**
- 31.1 If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt

Exhibit A
Supplemental Terms

in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

- 31.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.
32. **Jurisdiction And Venue.** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

Exhibit B

City of Austin, Texas NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION

City of Austin, Texas

Equal Employment/Fair Housing Office

To: City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Non-Discrimination and Non-Retaliation Policy set forth below.

City of Austin Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

Exhibit B

The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination and non-retaliation employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE THE CITY A COPY OF THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICIES ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICIES, AS SET FORTH HEREIN, OR THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 and the City's Non-Retaliation Policy may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4 and the Non-Retaliation Policy.

Term:

The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor's separate conforming policy, which the Contractor has executed and filed with the City, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payment, the Contractor's Non-Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 4TH day of FEBRUARY, 2019

CONTRACTOR

Authorized
Signature

Title

WORKPLACE RESOURCE, LLC

[Signature]

CFO

Exhibit C

**City of Austin, Texas
Section 0805**

NON-SUSPENSION OR DEBARMENT CERTIFICATION

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name:

WORKPLACE RESOURCE, LLC

Signature of Officer or
Authorized
Representative:



Date:

02.06.19

Printed Name:

SIMON NAVEJAR

Title

CFO

Exhibit D
Contractor's Offer

Herman Miller. This Contract is between Workplace Resource, LLC having offices at 1717 West 6th St., Suite 190, Austin, Texas 78703, and the City, a home-rule municipality incorporated by the State of Texas, and is effective on February 7, 2019 for the purchase of Herman Miller furniture from US Communities Contract No. 4400003403. Solicitation requirements are met by using the Contractor's US Communities Contract No. 4400003403.

1.1 This Contract is composed of the following documents, in the following order of precedence:

- 1.1.1 This contract cover;
- 1.1.2 Contractor's Offer;
- 1.1.3 US Communities Contract No. 4400003403, composed of the following documents:
 - 1.1.3.1 Acceptance Agreement
 - 1.1.3.2 Memorandum of Negotiation
 - 1.1.3.3 Notice of Award
 - 1.1.3.4 Administration Agreement
 - 1.1.3.5 Amendments
 - 1.1.3.6 Herman Miller, Inc., pricing based on the most recent published list prices which can be found on-line:
<https://www.hermanmiller.com/search-results/?q=price%20list>

1.2 Term of Contract. The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of ten (10) months and may be extended thereafter for up to one (1) additional twelve (12)-month period at the City's sole option, subject to the extension of the cooperative contract (as referenced in Section 1.1.6 above) and approval of the Contractor and the City Purchasing Officer or his designee. In no event shall the term extend beyond the December 31, 2020, termination date of the US Communities Contract No. 4400003403.

1.4.1 If the City exercises any extension option, all terms, conditions, and provisions of the Contract shall remain in effect for that extension period, subject only to any economic price adjustment otherwise allowed under the Contract.

1.2.1.1 Upon expiration of the initial term or any period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary for the City to re-solicit and/or complete the deliverables due under this Contract (not exceed 120 calendar days unless mutually agreed on in writing).

1.3 Compensation. The Contractor shall be paid upon successful completion of the Scope of Work, a total Not-to-Exceed amount of \$16,446,000.00, including all fees and expenses, for the initial Contract term and each approved extension option, to be shared by all Contractors.

1.4 Offer. Offeror should submit the following information and documentation with the Offer:

1.4.1 Contact Information

- 1.4.1.1 Name of Contractor's Point of Contact: Shea McClanahan
- 1.4.1.2 Phone Number of Contractor's Point of Contact: 512-381-8441
- 1.4.1.3 Email Address of Contractor's Point of Contact: Shea.McClanahan@wrstx.com
- 1.4.1.4 Name of Cooperative Furniture Contracts with copy of each Cooperative Contract attached: US Communities Contract No. 4400003403
- 1.4.1.5 Participates in a buy-back/take-back program

Exhibit D
Contractor's Offer

1.5 Certifications

Provide a list of your lines of furniture and with their contract applicable certifications. Also, please provide a copy of the certifications that you possess for those lines. Examples of compliant certifications include: BIFMA Level Certification with 7.6.1 Credit, Cradle to Cradle (C2C) Gold, Greenguard, Greenguard Gold, SCS Indoor Air Advantage and SCS Indoor Air Advantage Gold. Proof of ISO Guide 65 Accreditation must be provided for any certification organization not previously listed.

1.6 Scope of Work Requirements. Contractor shall comply with the following requirements for the resulting Contract:

1.6.1 Sustainable Standards

Unless waived by the Purchasing Office in writing, Contractor shall only provide furniture that is certified to meet ANSI/BIFMA Furniture Emissions Standard X7.1-2011 and/or ANSI/BIFMA e3-2012/2014 Furniture Sustainability Standard with credit 7.6.1. Updated versions of these standards will also be accepted.

1.6.2 Packaging

It is preferred that Contractor use packaging that does not contain packaging inks, dyes, pigments, adhesives, stabilizers, and additives with levels of lead, cadmium, mercury or hexavalent chromium in packaging inks, dyes, pigments, adhesives, stabilizers, and additives equal to or greater than 100 parts per million, which is consistent with packaging statutes adopted by 19 U.S. states. The following exceptions apply to this heavy metal threshold recommendation for packaging:

- 1.6.2.1 Packaging made from recycled materials.
- 1.6.2.2 Packaging that is essential to the protection, safe handling, or function of the package's contents (e.g., medical product and devices).
- 1.6.2.3 Packages and packaging components for which there is no feasible alternative.
- 1.6.2.4 Reusable packaging for products that are subject to other federal or state health, safety, transportation, or disposal requirements (i.e., hazardous waste).
- 1.6.2.5 Packaging having a controlled distribution and reuse (i.e., beverage containers subject to mandatory deposit requirements).
- 1.6.2.6 Packaging or packaging component that is glass or ceramic where the decoration has been vitrified and when tested, and meets specific requirements.

1.6.3 Disposal of Replaced Furniture

If so specified by the departmental contact responsible for the purchase of new furniture, Contractor shall provide pick up and recycling services for any furniture being replaced. Contractor should specify whether it participates in a buy-back/take-back or leasing program for furniture purchased through the Contract.

1.6.4 Reporting

Contractor shall provide evidence of the applicable third-party certification meeting ANSI/BIFMA Furniture Emissions Standard X7.1-2011 and/or ANSI/BIFMA e3-2012/2014

Exhibit D
Contractor's Offer

Furniture Sustainability Standard with credit 7.6.1. prior to contract award and if requested by the City for specific orders and invoices.

Contractor shall submit a report of all orders under the resulting contract on a quarterly and annual basis in an electronic format by email to the City of Austin's Point of Contact. The report shall include:

- 1.6.4.1 Date of Order
- 1.6.4.2 Ordering Department / #
- 1.6.4.3 Line item description
- 1.6.4.4 Amount of Order (\$)
- 1.6.4.5 ANSI / BIFMA X7.1 or Higher Certified (yes/no)
- 1.6.4.6 Items removed (including packaging) and whether they were recycled, reused or sent to a landfill

1.6.5 Waivers

The Purchasing Office may waive the ANSI/BIFMA X7.1 standard requirement on a case by case basis. An example of a circumstance in which a waiver may be granted is if there is an ADA requirement that cannot be met using furniture that meets the X7.1 standard or if there is a modification to an existing furniture installation that is determined to be not economically feasible and/or is incompatible with all ANSI/BIFMA X7.1 standard.

1.6.6 Kick-Off Meeting

Contractor shall attend a Kick-Off Meeting with the City, either in person or on the phone, at a date to be determined by the City. The meeting is to review contract terms, conditions and any other relevant matters.



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

OCT 10 2012

Herman Miller, Inc.
855 East Main Ave
P.O. Box 302
Zeeland, MI 49464

Attention: Dave Gillman, Contract Manager

Reference: RFP2000000330 – Office Furniture and Related Services and Solutions

Dear Mr. Gillman:

ACCEPTANCE AGREEMENT

Contract Number: 4400003403

This acceptance agreement signifies a contract award to Herman Miller, Inc. in its entirety for Office Furniture and Related Services and Solutions. The period of the contract is from January 1, 2013, through December 31, 2016, with four (4), one (1) year renewal options.

The contract award shall be in accordance with the following:

- 1) This Acceptance Agreement;
- 2) The signed Memorandum of Negotiations

Please note that this is not an order to proceed. A Purchase Order, which constitutes your notice to proceed, will be issued by the County. Please provide your Insurance Certificate according to Special Provisions paragraph 14 within ten (10) days of receipt of this letter. Contract award documents may be viewed on the Department of Purchasing and Supply Management website at www.fairfaxcounty.gov/register.

Cathy A. Muse, CPPO
Director/County Purchasing Agent

Department of Purchasing and Supply Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035

Website: www.fairfaxcounty.gov/dpsm

Phone: 703-324-3201, TTY: 1-800-828-1140, Fax: 703-324-3228



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

MEMORANDUM OF NEGOTIATION RFP2000000330

The County of Fairfax (hereinafter called the County) and Herman Miller, Inc. (hereinafter called the Contractor) hereby agree to the following in the execution of Contract 4400003403. The final contract contains the following items:

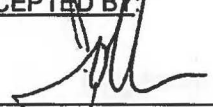
- a. Fairfax County's RFP2000000330
- b. All Addenda
- c. Herman Miller, Inc. Technical and Business proposal as amended by this Memorandum of Negotiations
- d. Response to clarifications dated August 7, and 8, 2012
- e. The Memorandum of Negotiations

The following and are to be included in the contract:

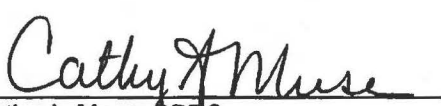
1. This contract will begin on January 1, 2013 and terminate on December 31, 2016. Fairfax County reserves the right to renew the contract for four (4) years, one (1) year at a time by mutual agreement.
2. Revised Cost Proposal Attachment A – Price Sheet – submitted via e-mail on August 9, 2012.
3. Discounts will remain firm for the duration of the contract. Discounts will be taken from the price books dated September 4, 2012 until new price books are released.

All other prices, terms, and conditions remain the same.

ACCEPTED BY:


John Amrhein, Vice President of Operations
& North America Strategy Development
Herman Miller Inc.

10/2/12
Date


Cathy A. Muse, CPPO
Director/County Purchasing Agent

10/9/12
Date

DPSM OCT 31 2012 10:26

Department of Purchasing and Supply Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035
Website: www.fairfaxcounty.gov/dpsm
Phone: 703-324-3201, TTY: 1-800-828-1140, Fax: 703-324-3228



County of Fairfax, Virginia

NOTICE OF AWARD

OCT 10 2012

CONTRACT TITLE: Office Furniture and Related Services and Solutions

RFX NUMBER: 2000000330

COMMODITY CODE: 42594

CONTRACT PERIOD: January 1, 2013, through December 31, 2016

RENEWALS: 4 Renewals, 1 year at a time

SUPERSEDES CONTRACT: RQ07-878957-20

<u>CONTRACTORS:</u>	<u>SUPPLIER CODE</u>	<u>CONTRACT NUMBER</u>
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Haworth, Inc. One Haworth Center Holland MI 49423 Contact: Cyndi Kamps Telephone: 616-393-1645 E-Mail: Cyndi.kamps@haworth.com Payment Terms: Net 30 days	1000011672	4400003402
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Herman Miller, Inc. 855 East Main Ave. P. O. Box 302 Zealand, MI 49464 Contact: Dave Gillman, Contract Manager Telephone: 616-654-8375 E-Mail: dave_gillman@hermanmiller.com Payment Terms: Net 30 days	1000011666	4400003403
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Knoll, Inc. 1235 Water Street East Greenville, PA 18041 Contact: Steve Robinson, Vice President Telephone: 202-973-0410 E-Mail: Steven_M_Robinson@knoll.com Payment Terms: Net 30 days	1000011430	4400003404
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Department of Purchasing & Supply Management

12000 Government Center Parkway, Suite 427

Fairfax, VA 22035-0013

Website: www.fairfaxcounty.gov/dpsm

Phone (703) 324-3201, TTY: 1-800- 828-1140, Fax: (703) 324-3681

Notice of Award
RFX2000000330
Page 2

PRICES: See Attached

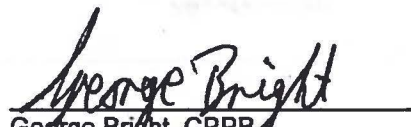
DELIVERY: N/A

FOB: Destination

DPSM CONTACT: George Bright, Contract Specialist
Telephone: 703-324-3215
E-mail: george.bright@fairfaxcounty.gov

ORDERING INSTRUCTIONS:

Any county department may enter a shopping cart into FOCUS indicating the item/service required, the quantity, the payment terms, and the delivery date. The shopping cart must include the contract number in the appropriate field. Requests exceeding the County small purchase order threshold (\$10,000) will be routed for approval and a purchase order will be executed.


George Bright, CPPB
Contract Specialist Supervisor

DISTRIBUTION:

Department of Finance – Accounts Payable
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Cathy Spaine/e
Facilities Management Dept. – Shirley Dowell/e
U. S. Communities
2033 N. Main St. Suite 700
Walnut Creek, CA 94596
Attn: Corey Imhoff
Mary Pelfrey

Contract Specialist – G. Bright
Asst. Contract Spec. – Team 2

ADMINISTRATION AGREEMENT

This ADMINISTRATION AGREEMENT ("Agreement") is made as of October 10, 2012, by and between U.S. COMMUNITIES GOVERNMENT PURCHASING ALLIANCE ("U.S. Communities") and HERMAN MILLER, INC. ("Supplier").

RECITALS

WHEREAS, Fairfax County, Virginia ("Lead Public Agency") has entered into a certain Master Agreement of even date herewith, referenced as Agreement No. 4400003403, by and between Lead Public Agency and Supplier (as amended from time to time in accordance with the terms thereof, the "Master Agreement") for the purchase of systems furniture, freestanding furniture, seating, filing equipment and related products and services (the "Products and Services");

WHEREAS, the Master Agreement provides that any state, county, city, special district, local government, school district, private K-12 school, technical or vocational school, higher education institution (including community colleges, colleges and universities, both public and private), other government agency or nonprofit organization (each a "Public Agency" and collectively, "Public Agencies") may purchase Products and Services at the prices indicated in the Master Agreement upon prior registration with U.S. Communities, in which case the Public Agency becomes a "Participating Public Agency";

WHEREAS, U.S. Communities has the administrative and legal capacity to administer purchases under the Master Agreement to Participating Public Agencies;

WHEREAS, U.S. Communities serves as the administrative agent for Lead Public Agency and other lead public agencies in connection with other master agreements offered by U.S. Communities;

WHEREAS, Lead Public Agency desires U.S. Communities to proceed with administration of the Master Agreement on the same basis as other master agreements;

WHEREAS, "U.S. Communities Government Purchasing Alliance" is a trade name licensed by U.S. Communities Purchasing & Finance Agency; and

WHEREAS, U.S. Communities and Supplier desire to enter into this Agreement to make available the Master Agreement to Participating Public Agencies.

NOW, THEREFORE, in consideration of the payments to be made hereunder and the mutual covenants contained in this Agreement, U.S. Communities and Supplier hereby agree as follows:

ARTICLE I

GENERAL TERMS AND CONDITIONS

1.1 The Master Agreement, attached hereto as Exhibit A and incorporated herein by reference as though fully set forth herein, and the terms and conditions contained therein shall apply to this Agreement except as expressly changed or modified by this Agreement.

1.2 U.S. Communities shall be afforded all of the rights, privileges and indemnifications afforded to Lead Public Agency under the Master Agreement, and such rights, privileges and

indemnifications shall accrue and apply with equal effect to U.S. Communities under this Agreement including, without limitation, Supplier's obligation to provide insurance and certain indemnifications to Lead Public Agency.

1.3 Supplier shall perform all duties, responsibilities and obligations required under the Master Agreement in the time and manner specified by the Master Agreement.

1.4 U.S. Communities shall perform all of its duties, responsibilities and obligations as administrator of purchases under the Master Agreement as set forth herein, and Supplier acknowledges that U.S. Communities shall act in the capacity of administrator of purchases under the Master Agreement.

1.5 With respect to any purchases made by Lead Public Agency or any Participating Public Agency pursuant to the Master Agreement, U.S. Communities (a) shall not be construed as a dealer, re-marketer, representative, partner, or agent of any type of Supplier, Lead Public Agency or such Participating Public Agency, (b) shall not be obligated, liable or responsible (i) for any orders made by Lead Public Agency, any Participating Public Agency or any employee of Lead Public Agency or a Participating Public Agency under the Master Agreement, or (ii) for any payments required to be made with respect to such order, and (c) shall not be obligated, liable or responsible for any failure by a Participating Public Agency to (i) comply with procedures or requirements of applicable law, or (ii) obtain the due authorization and approval necessary to purchase under the Master Agreement. U.S. Communities makes no representations or guaranties with respect to any minimum purchases required to be made by Lead Public Agency, any Participating Public Agency, or any employee of Lead Public Agency or a Participating Public Agency under this Agreement or the Master Agreement.

ARTICLE II

TERM OF AGREEMENT

2.1 This Agreement is effective as of January 1, 2013 and shall terminate upon termination of the Master Agreement or any earlier termination in accordance with the terms of this Agreement, provided, however, that the obligation to pay all amounts owed by Supplier to U.S. Communities through the termination of this Agreement and all indemnifications afforded by Supplier to U.S. Communities shall survive the term of this Agreement.

ARTICLE III

REPRESENTATIONS AND COVENANTS

3.1 U.S. Communities views the relationship with Supplier as an opportunity to provide benefits to both Public Agencies and Supplier. The successful foundation of the relationship requires certain representations and covenants from both U.S. Communities and Supplier.

3.2 U.S. Communities' Representations and Covenants.

(a) **Marketing.** U.S. Communities shall proactively market the Master Agreement to Public Agencies using resources such as a network of major sponsors including the National League of Cities (NLC), National Association of Counties (NACo), United States Conference of Mayors (USCM), Association of School Business Officials (ASBO) and National Institute of Governmental Purchasing (NIGP) (collectively, the "**Founding Co-Sponsors**") and individual state-level sponsors. In addition, the

U.S. Communities staff shall enhance Supplier's marketing efforts through meetings with Public Agencies, participation in key events and tradeshows and by providing online tools to Supplier's sales force.

(b) Training and Knowledge Management Support. U.S. Communities shall provide support for the education, training and engagement of Supplier's sales force as provided herein. Through its staff (each, a "Program Manager" and collectively, the "Program Managers"), U.S. Communities shall conduct training sessions with Supplier and shall conduct calls jointly with Supplier to Public Agencies. U.S. Communities shall also provide Supplier with access to U.S. Communities' private intranet website which provides presentations, documents and information to assist Supplier's sales force in effectively promoting the Master Agreement.

3.3 Supplier's Representations and Covenants. Supplier hereby represents and covenants as follows in order to ensure that Supplier is providing the highest level of public benefit to Participating Public Agencies (such representations and covenants are sometimes referred to as "Supplier's Commitments" and are comprised of the Corporate Commitment, Pricing Commitment, Economy Commitment and Sales Commitment):

(a) Corporate Commitment.

(i) The pricing, terms and conditions of the Master Agreement shall, at all times, be Supplier's primary contractual offering of Products and Services to Public Agencies. All of Supplier's direct and indirect marketing and sales efforts to Public Agencies shall demonstrate that the Master Agreement is Supplier's primary offering and not just one of Supplier's contract options.

(ii) Supplier's sales force (including inside, direct and/or authorized dealers, distributors and representatives) shall always present the Master Agreement when marketing Products or Services to Public Agencies.

(iii) Supplier shall advise all Public Agencies that are existing customers of Supplier as to the pricing and other value offered through the Master Agreement.

(iv) Upon authorization by a Public Agency, Supplier shall transition such Public Agency to the pricing, terms and conditions of the Master Agreement.

(v) Supplier shall ensure that the U.S. Communities program and the Master Agreement are actively supported by Supplier's senior executive management.

(vi) Supplier shall provide a national/senior management level representative with the authority and responsibility to ensure that the Supplier's Commitments are maintained at all times. Supplier shall also designate a lead referral contact person who shall be responsible for receiving communications from U.S. Communities concerning new Participating Public Agency registrations and for ensuring timely follow-up by Supplier's staff to requests for contact from Participating Public Agencies. Supplier shall also provide the personnel necessary to implement and support a supplier-based internet web page dedicated to Supplier's U.S. Communities program and linked to U.S. Communities' website and shall implement and support such web page.

(vii) Supplier shall demonstrate in its procurement solicitation response and throughout the term of the Master Agreement that national/senior management fully supports the U.S. Communities program and its commitments and requirements. National/Senior management is defined as the executive(s) with companywide authority.

(viii) Where Supplier has an existing contract for Products and Services with a state, Supplier shall notify the state of the Master Agreement and transition the state to the pricing, terms and conditions of the Master Agreement upon the state's request. Regardless of whether the state decides to transition to the Master Agreement, Supplier shall primarily offer the Master Agreement to all Public Agencies located within the state.

(b) **Pricing Commitment.**

(i) Supplier represents to U.S. Communities that the pricing offered under the Master Agreement is the lowest overall available pricing (net to purchaser) on Products and Services that it offers to Public Agencies. Supplier's pricing shall be evaluated on either an overall project basis or the Public Agency's actual usage for more frequently purchased Products and Services.

(ii) **Contracts Offering Lower Prices.** If a pre-existing contract and/or a Public Agency's unique buying pattern provide one or more Public Agencies a lower price than that offered under the Master Agreement, Supplier shall match that lower pricing under the Master Agreement and inform the eligible Public Agencies that the lower pricing is available under the Master Agreement. If an eligible Public Agency requests to be transitioned to the Master Agreement, Supplier shall do so and report the Public Agency's purchases made under the Master Agreement going forward. The price match only applies to the eligible Public Agencies. Below are three examples of Supplier's obligation to match the pricing under Supplier's contracts offering lower prices.

(A) Supplier holds a state contract with lower pricing that is available to all Public Agencies within the state. Supplier would be required to match the lower state pricing under the Master Agreement and make it available to all Public Agencies within the state.

(B) Supplier holds a regional cooperative contract with lower pricing that is available only to the ten cooperative members. Supplier would be required to match the lower cooperative pricing under the Master Agreement and make it available to the ten cooperative members.

(C) Supplier holds a contract with an individual Public Agency. The Public Agency contract does not contain any cooperative language and therefore other Public Agencies are not eligible to utilize the contract. Supplier would be required to match the lower pricing under the Master Agreement and make it available only to the individual Public Agency.

(iii) **Deviating Buying Patterns.** Occasionally U.S. Communities and Supplier may interact with a Public Agency that has a buying pattern or terms and conditions that considerably deviate from the normal Public Agency buying pattern and terms and conditions, and causes Supplier's pricing under the Master Agreement to be higher than an alternative contract held by Supplier. This could be created by a unique end-user preference or requirements. In the event that this situation occurs, Supplier may address the issue by lowering the price under the Master Agreement on the item(s) causing the large deviation for that Public Agency. Supplier would not be required to lower the price for other Public Agencies.

(iv) **Supplier's Options in Responding to a Third Party Procurement Solicitation.** While it is the objective of U.S. Communities to encourage Public Agencies to piggyback on to the Master Agreement rather than issue their own procurement solicitations, U.S. Communities recognizes that for various reasons some Public Agencies will issue their own solicitations. The

following options are available to Supplier when responding to a Public Agency solicitation:

(A) Supplier may opt not to respond to the procurement solicitation. Supplier may make the Master Agreement available to the Public Agency as a comparison to its solicitation responses.

(B) Supplier may respond with the pricing, terms and conditions of the Master Agreement. If Supplier is awarded the contract, the sales would be reported as sales under the Master Agreement.

(C) If competitive conditions require pricing lower than the standard Master Agreement pricing, Supplier may submit lower pricing through the Master Agreement. If Supplier is awarded the contract, the sales would be reported as sales under the Master Agreement. Supplier would not be required to extend the lower price to other Public Agencies.

(D) Supplier may respond to the procurement solicitation with pricing that is higher (net to buyer) than the pricing offered under the Master Agreement. If awarded a contract, Supplier shall still be bound by all obligations set forth in this Section 3.3, including, without limitation, the requirement to continue to advise the awarding Public Agency of the pricing, terms and conditions of the Master Agreement.

(E) Supplier may respond to the procurement solicitation with pricing that is higher (net to buyer) than the pricing offered under the Master Agreement and if an alternative response is permitted, Supplier may offer the pricing under the Master Agreement as an alternative for consideration.

(c) **Economy Commitment.** Supplier shall demonstrate the benefits, including the pricing advantage, of the Master Agreement over alternative options, including competitive solicitation pricing and shall proactively offer the terms and pricing under the Master Agreement to Public Agencies as a more effective alternative to the cost and time associated with such alternate bids and solicitations.

(d) **Sales Commitment.** Supplier shall market the Master Agreement through Supplier's sales force or dealer network that is properly trained, engaged and committed to offering the Master Agreement as Supplier's primary offering to Public Agencies. Supplier's sales force compensation and incentives shall be greater than or equal to the compensation and incentives earned under other contracts to Public Agencies.

(i) **Supplier Sales.** Supplier shall be responsible for proactive direct sales of Supplier's Products and Services to Public Agencies and the timely follow-up to sales leads identified by U.S. Communities. Use of product catalogs, targeted advertising, direct mail and other sales initiatives are encouraged. All of Supplier's sales materials targeted towards Public Agencies shall include the U.S. Communities logo. U.S. Communities hereby grants to Supplier, during the term of this Agreement, a non-exclusive, revocable, non-transferable, license to use the U.S. Communities name, trademark, and logo solely to perform its obligations under this Agreement, and for no other purpose. Any goodwill, rights, or benefits derived from Supplier's use of the U.S. Communities name, trademark, or logo shall inure to the benefit of U.S. Communities. U.S. Communities shall provide Supplier with its logo and the standards to be employed in the use of the logo. During the term of the Agreement, Supplier grants to U.S. Communities an express license to reproduce and use Supplier's name and logo in connection with the advertising, marketing and promotion of the Master Agreement to Public Agencies. Supplier shall assist U.S. Communities by providing camera-ready logos and by participating in related trade shows and conferences. At a minimum, Supplier's sales initiatives shall communicate that (i) the Master Agreement

was competitively solicited by the Lead Public Agency, (ii) the Master Agreement provides the best government pricing, (iii) there is no cost to Participating Public Agencies, and (iv) the Master Agreement is a non-exclusive contract.

(ii) Branding and Logo Compliance. Supplier shall be responsible for complying with the U.S. Communities branding and logo standards and guidelines. Prior to use by Supplier, all U.S. Communities related marketing material must be submitted to U.S. Communities for review and approval.

(iii) Sales Force Training. Supplier shall train its national sales force on the Master Agreement and U.S. Communities program. U.S. Communities shall be available to train regional or district managers and generally assist with the education of sales personnel.

(iv) Participating Public Agency Access. Supplier shall establish the following communication links to facilitate customer access and communication:

(A) A dedicated U.S. Communities internet web-based homepage containing:

- (1) U.S. Communities standard logo with Founding Co-Sponsors logos;
- (2) Copy of original procurement solicitation;
- (3) Copy of Master Agreement including any amendments;
- (4) Summary of Products and Services pricing;
- (5) Electronic link to U.S. Communities' online registration page; and
- (6) Other promotional material as requested by U.S. Communities.

(B) A dedicated toll-free national hotline for inquiries regarding U.S. Communities.

(C) A dedicated email address for general inquiries in the following format: uscommunities@(name of supplier).com.

(v) Electronic Registration. Supplier shall be responsible for ensuring that each Public Agency has completed U.S. Communities' online registration process prior to processing the Public Agency's first sales order.

(vi) Supplier's Performance Review. Upon request by U.S. Communities, Supplier shall participate in a performance review meeting with U.S. Communities to evaluate Supplier's performance of the covenants set forth in this Agreement.

(vii) Supplier Content. Supplier may, from time to time, provide certain graphics, media, and other content to U.S. Communities (collectively "Supplier Content") for use on U.S. Communities websites and for general marketing and publicity purposes. Supplier hereby grants to U.S. Communities and its affiliates a non-exclusive, worldwide, perpetual, free, transferrable, license to reproduce, modify, distribute, publically perform, publically display, and use Supplier Content in connection with U.S. Communities websites and for general marketing and publicity purposes, with the right to sublicense each and every such right. Supplier warrants that: (a) Supplier is the owner of or otherwise has the unrestricted right to grant the rights in and to Supplier Content as contemplated

hereunder; and (b) the use of Supplier Content and any other materials or services provided to U.S. Communities as contemplated hereunder will not violate, infringe, or misappropriate the intellectual property rights or other rights of any third party

3.4 **Breach of Supplier's Representations and Covenants.** The representations and covenants set forth in this Agreement are the foundation of the relationship between U.S. Communities and Supplier. If Supplier is found to be in violation of, or non-compliance with, one or more of the representations and covenants set forth in this Agreement, Supplier shall have ninety (90) days from the notice of default to cure such violation or non-compliance and, if Supplier fails to cure such violation or non-compliance within such notice period, it shall be deemed a cause for immediate termination of the Master Agreement at Lead Public Agency's sole discretion or this Agreement at U.S. Communities' sole discretion.

3.5 **Indemnity.** Supplier hereby agrees to indemnify and defend U.S. Communities, and its parent companies, subsidiaries, affiliates, shareholders, member, manager, officers, directors, employees, agents, and representatives from and against any and all claims, costs, proceedings, demands, losses, damages, and expenses (including, without limitation, reasonable attorney's fees and legal costs) of any kind or nature, arising from or relating to, any actual or alleged breach of any of Supplier's representations, warranties, or covenants in this Agreement.

ARTICLE IV

PRICING AUDITS

4.1 Supplier shall, at Supplier's sole expense, maintain an accounting of all purchases made by Lead Public Agency and Participating Public Agencies under the Master Agreement. U.S. Communities and Lead Public Agency each reserve the right to audit the accounting for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. U.S. Communities shall have the authority to conduct random audits of Supplier's pricing that is offered to Participating Public Agencies at U.S. Communities' sole cost and expense. Notwithstanding the foregoing, in the event that U.S. Communities is made aware of any pricing being offered to three (3) or more Participating Public Agencies that is materially inconsistent with the pricing under the Master Agreement, U.S. Communities shall have the ability to conduct an extensive audit of Supplier's pricing at Supplier's sole cost and expense during regular business hours upon reasonable notice. U.S. Communities may conduct the audit internally or may engage a third-party auditing firm on a non-contingent basis. Supplier shall solely be responsible for the cost of the audit up to the first \$50,000 and U.S. Communities and Supplier shall each be responsible for fifty percent (50%) of the audit costs that exceed \$50,000. In the event of an audit, the requested materials shall be provided in the format and at the location where kept in the ordinary course of business by Supplier.

ARTICLE V

FEES & REPORTING

5.1 **Administrative Fees.** Supplier shall pay to U.S. Communities a monthly administrative fee based upon the total sales price of all purchases shipped and billed pursuant to the Master Agreement, excluding taxes, in the amount of two percent (2%) of aggregate purchases made during each calendar month (individually and collectively, "Administrative Fees"). Supplier's annual sales shall be measured

on a calendar year basis. All Administrative Fees shall be payable in U.S. Dollars and shall be made by wire to U.S. Communities, or its designee or trustee as may be directed in writing by U.S. Communities. Administrative Fees shall be due and payable within thirty (30) days of the end of each calendar month for purchases shipped and billed during such calendar month. U.S. Communities agrees to pay to Lead Public Agency five percent (5%) of all Administrative Fees received from Supplier to help offset Lead Public Agency's costs incurred in connection with managing the Master Agreement nationally.

5.2 **Sales Reports.** Within thirty (30) days of the end of each calendar month, Supplier shall deliver to U.S. Communities an electronic accounting report, in the format prescribed by Exhibit B, attached hereto, summarizing all purchases made under the Master Agreement during such calendar month ("Sales Report"). All purchases indicated in the Sales Report shall be denominated in U.S. Dollars. All purchases shipped and billed pursuant to the Master Agreement for the applicable calendar month shall be included in the Sales Report. U.S. Communities reserves the right upon reasonable advance notice to Supplier to change the prescribed report format to accommodate the distribution of the Administrative Fees to its program sponsors and state associations.

(a) Monthly Sales Reports shall include all sales reporting under the Master Agreement, and a breakout of Environmental Preferable (Green) sales reporting. Supplier must make reasonable attempts at filling in all required information and contact U.S. Communities with a plan to correct any deficiencies of data field population.

(b) Submitted reports shall be verified by U.S. Communities against its registration database. Any data that is inconsistent with the registration database shall be changed prior to processing.

5.3 **Exception Reporting/Sales Reports Audits.** U.S. Communities or its designee may, at its sole discretion, compare Supplier's Sales Reports with Participating Public Agency records or other sales analysis performed by Participating Public Agencies, sponsors, advisory board members or U.S. Communities staff. If there is a material discrepancy between the Sales Report and such records or sales analysis as determined by U.S. Communities, U.S. Communities shall notify Supplier in writing and Supplier shall have thirty (30) days from the date of such notice to resolve the discrepancy to U.S. Communities' reasonable satisfaction. Upon resolution of the discrepancy, Supplier shall remit payment to U.S. Communities' trustee within fifteen (15) calendar days. Any questions regarding an exception report should be directed to U.S. Communities in writing to reporting@uscommunities.org. If Supplier does not resolve the discrepancy to U.S. Communities' reasonable satisfaction within thirty (30) days, U.S. Communities shall have the right to engage outside services to conduct an independent audit of Supplier's reports. Supplier shall solely be responsible for the cost of the audit up to the first \$50,000 and U.S. Communities and Supplier shall each be responsible for fifty percent (50%) of the audit costs that exceed \$50,000.

5.4 **Online Reporting.** Within sixty (60) days of the end of each calendar quarter, U.S. Communities shall provide online reporting to Supplier containing Supplier's sales reporting for such calendar quarter. Supplier shall contact U.S. Communities within fifteen (15) days of receiving notification of the online reporting and report to U.S. Communities any concerns or disputes regarding the reports, including but not limited to concerns regarding the following:

Report Name	Follow up with U.S. Communities
5 Qtr Drop Sales Analysis	Financial & Reporting Manager
Zero States Sales Report	Program Manager
Registered Agency Without Sales Report	Program Manager

Supplier shall have access to the above reports through the U.S. Communities intranet website. The following additional reports are also available to Supplier and are useful in resolving reporting issues and enabling Supplier to better manage its Master Agreement:

- (i) Agency Sales by Population/Enrollment Report
- (ii) Hot Prospect Sales Report
- (iii) New Lead Sales Report
- (iv) State Comparison Sales Report
- (v) Advisory Board Usage Report
- (vi) Various Agency Type Comparison Reports
- (vii) Sales Report Builder

5.5 **Supplier's Failure to Provide Reports or Pay Administrative Fees.** Failure to provide a Sales Report or pay Administrative Fees within the time and in the manner specified herein shall be regarded as a material breach under this Agreement and if not cured within thirty (30) days of written notice to Supplier, shall be deemed a cause for termination of the Master Agreement at Lead Public Agency's sole discretion or this Agreement at U.S. Communities' sole discretion. All Administrative Fees not paid within thirty (30) days of the end of the previous calendar month shall bear interest at the rate of one and one-half percent (1.5%) per month until paid in full.

ARTICLE VI

MISCELLANEOUS

6.1 **Entire Agreement.** This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

6.2 **Attorney's Fees.** If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs in addition to any other relief to which such party may be entitled.

6.3 **Assignment.**

(a) **Supplier.** Neither this Agreement nor any rights or obligations hereunder shall be assignable by Supplier without prior written consent of U.S. Communities, and any assignment without such consent shall be void.

(b) **U.S. Communities.** This Agreement and any rights or obligations hereunder may be assigned by U.S. Communities in U.S. Communities' sole discretion, to an existing or newly established legal entity that has the authority and capacity to perform U.S. Communities' obligations hereunder.

6.4 **Notices.** All reports, notices or other communications given hereunder shall be delivered by first-class mail, postage prepaid, or overnight delivery requiring signature on receipt to the addresses as set forth below. U.S. Communities may, by written notice delivered to Supplier, designate any different address to which subsequent reports, notices or other communications shall be sent.

U.S. Communities:

U.S. Communities
2033 N. Main Street, Suite 700
Walnut Creek, California 94596
Attn: Program Manager Administration

Supplier:

Herman Miller, Inc.
855 East Main Ave.
P.O. Box 302
Zeeland, MI 49464
Attn: U.S. Communities Program Manager

6.5 Severability. If any provision of this Agreement shall be deemed to be, or shall in fact be, illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

6.6 Waiver. Any failure of a party to enforce, for any period of time, any of the provisions under this Agreement shall not be construed as a waiver of such provisions or of the right of said party thereafter to enforce each and every provision under this Agreement.

6.7 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

6.8 Modifications. This Agreement may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the parties hereto.

6.9 Governing Law; Arbitration. This Agreement will be governed by and interpreted in accordance with the laws of the State of California without regard to any conflict of laws principles. Any dispute, claim, or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this dispute resolution clause, shall be determined by arbitration in Walnut Creek, California, before one (1) arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The prevailing party will be entitled to recover its reasonable attorneys' fees and arbitration costs from the other party. The arbitration award shall be final and binding. Each party commits that prior to commencement of arbitration proceedings, the parties shall submit the dispute to JAMS for mediation. The parties will cooperate with JAMS and with one another in selecting a mediator from JAMS panel of neutrals, and in promptly scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. The mediation will be conducted by each party designating a duly authorized officer or other representative to represent the party with the authority to bind the party, and that the parties agree to exchange informally such information as is reasonably necessary and relevant to the issues being mediated. All offers, promises, conduct, and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts, and attorneys, and by the mediator or any JAMS employees, are confidential, privileged, and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. If the dispute is not resolved within thirty (30) days from the date of the submission of the dispute to mediation (or such later date as the parties may mutually agree in writing), the administration of the arbitration shall proceed. The mediation may continue, if the parties so agree, after the appointment of the arbitrator. Unless otherwise agreed by the parties, the mediator shall be

disqualified from serving as arbitrator in the case. The pendency of a mediation shall not preclude a party from seeking provisional remedies in aid of the arbitration from a court of appropriate jurisdiction, and the parties agree not to defend against any application for provisional relief on the ground that a mediation is pending.

6.10 Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon U.S. Communities, Supplier and any successor and assign thereto; subject, however, to the limitations contained herein.

[Remainder of Page Intentionally Left Blank – Signatures Follow]

IN WITNESS WHEREOF, U.S. Communities has caused this Agreement to be executed in its name and Supplier has caused this Agreement to be executed in its name, all as of the date first written above.

U.S. Communities:

U.S. COMMUNITIES GOVERNMENT PURCHASING ALLIANCE

By 

Name: RAYMOND E. MARTIN

Title: MANAGING DIRECTOR

Supplier:

HERMAN MILLER, INC.

By  10/19/12

Name: John Amrhein

Title: VP Sales Operations

Herman Miller, Inc., Price Sheet - Revised July 26, 2018

Purchase orders must be issued to the local authorized Herman Miller Dealer

Discounts are from List Price								
Tiers are based on List Product Value of each order (except SitOnIt Seating)								
Discounts for orders over \$400,000 List Value are negotiable								
Product Line	\$1 - \$100,000				\$100,001 - \$400,000			
	Drop Ship	Inside Delivery	Basic Install	Expanded Install	Drop Ship	Inside Delivery	Basic Install	Expanded Install
Action Office® Systems, Ethospace® System, Quadrant B & F Front Pedestals, Eames® Tables (ET101 – ET308) and Aive® Tables,	69%	67%	64%	62%	71%	69%	66%	64%
Canvas Office Landscape™ (Walls, Pvt. Off., Filing, Storage, Beam, Group, Dock)	69%	67%	64%	62%	71%	69%	66%	64%
Thrive Portfolio™, Public Office Landscape™	54%	52%	49%	47%	56%	54%	51%	49%
Layout Studio, Prospect	51%	49%	46%	44%	53%	51%	48%	46%
Exclave, Arrio®, Resolve®, Intersect™, Intent	53%	51%	48%	46%	55%	53%	50%	48%
Ergon 3® Seating, Equa 2® Seating,	57%	55%	54%	52%	59%	57%	56%	54%
Locale™	58%	56%	53%	51%	60%	58%	55%	53%
Meridian® Storage & Towers, Quad. B & F Front Lats	52%	50%	47%	45%	54%	52%	49%	47%
Meridian® Pedestals, Lateral & Vertical Files	54%	52%	49%	47%	56%	54%	51%	49%
Aeron®, Cosm, Celle™, Mirra® 2, Sayl™, Verus, Lino Seating, Setu™ Chairs & Tbls	51%	49%	48%	46%	53%	51%	50%	48%
Keyn Seating, Embody® Chair	49%	47%	46%	44%	51%	49%	48%	46%
Caper® Seating, Limerick® Seating, Aside® Seating	53%	51%	50%	48%	55%	53%	52%	50%
Everywhere Tables™, Renew™ Tables and Bench, Motia Tables	67%	65%	62%	60%	69%	67%	64%	62%
Eames® Alum., Shell & Tandem Seating, Classical, Collection, Celeste, Swoop, Burdick Group™, International Collection™, Plex Furn, Eames Stone-Top Tables,	46%	44%	43%	41%	48%	46%	45%	43%
Tu™ Files, Tu™ Peds, Tu™ Storage, Tu™ Towers, Tu™ Laminate,	65%	63%	60%	58%	67%	65%	62%	62%
Eames Molded Plastic & Wire, Goetz Sofa, Stools; Magis, Mattiazzi & the HermanMiller Collection Products	40%	38%	37%	35%	42%	40%	39%	37%
Co/Struc®, Action Lab™, Mora	51%	49%	46%	44%	53%	51%	48%	46%
Compass	54%	neg.	neg.	neg.	55%	neg.	neg.	neg.
Herman Miller for Healthcare Carts	12%	10%	7%	5%	12%	10%	7%	5%
Domino Storage	40%	38%	35%	33%	42%	40%	37%	35%
Ward Bennett	43%	41%	38%	36%	45%	43%	40%	38%
Geiger® Caseloads and Seating, GeigerEXPRESS sm	51%	49%	46%	44%	52%	50%	47%	45%
Nemschoff Products, excluding furniture with motion mechanisms	48%	47%	46%	45%	48%	47%	46%	45%
Naughtone Lounge Furniture	46%	44%	43%	41%	46%	44%	43%	41%
SitOnIt Products (tiered based on independent SOI volume)								
Tier 1 \$1 - \$15,000	54.50%	52.50%	51.50%	49.50%				
Tier 2 \$15,001 - \$50,000	55.25%	53.25%	51.50%	50.00%				
Tier 3 \$50,001 - \$100,000	56.25%	54.25%	52.25%	50.25%				
Tier 4 \$100,001 - \$250,000	58.25%	56.25%	55.00%	53.00%				
Tier 5 \$250,001 +	neg.	neg.	neg.	neg.				

- List prices include freight within the 48 contiguous United States. Shipments outside of the contiguous United States are shipped freight prepaid to point of embarkation with freight costs beyond that point shipped collect.
- Payment Terms are Net 30 or as negotiated with the local dealer.
- Returns & cancellations are allowed only with HMI/dealer approval under HMI's change/cancellation policy.

Additional Services and Solutions	Hourly Rates	
	Min.	Max.
Installation of existing product	\$ 35.00	\$ 55.00
After hours installation	\$ 52.50	\$ 82.50
Design	\$ 55.00	\$ 75.00
Project Management	\$ 55.00	\$ 85.00
Asset Management	\$ 55.00	\$ 85.00
Refurbishment*	n/a	n/a
<i>*HMI or our dealer will work with the customer to determine the best product disposition via our rePurpose program or Trade-in</i>	To Be Quoted	
	Monthly Fee	
<i>Storage – for planning only, actual cost to be quoted; in/out and other services onsite and/or trailer storage are extra</i>	\$1.40/sq. ft.	\$1.80/sq. ft.
Other Related Services and Solutions	Hourly Rates	
	Min.	Max.
Reconfiguration	\$ 35.00	\$ 55.00
Strategic Planning Services	\$ 100.00	\$ 150.00
Occupancy Planning/CAD Drafter	\$ 60.00	\$ 85.00
Build-Out Project Mgt. Services	\$ 90.00	\$ 110.00
FF&E Mgt. Services	\$ 90.00	\$ 110.00
<i>*Travel expenses will be quoted extra</i>		
Performance Environments	To Be Quoted	

Note:

1. **Drop Ship**, price includes product delivery to the site, the purchaser is responsible for unloading.
2. **Inside Delivery**, price includes product delivered to the site and unloaded.
3. **Basic Installation**, price includes inside delivery, uncrating, assembly, installation, removal of debris from premises, installation documents and the bill of materials per the purchaser's approved plan and specifications.
4. **Expanded Service Installation** price to include basic installation; field measurements surveyed, documented and coordinated; electrical and tele/data infeed locations are surveyed, documented and coordinated; attend required coordination meetings with purchaser and other contractors; and creation and implementation of punch list by project manager.

Installation & Delivery Services:

The service option product discounts include "standard" services only, subject to the conditions listed below. The discounts are "not to exceed" percentages that may be lower as quoted by the servicing dealer dependent on the specific project conditions. Additional charges and services shall be negotiated in advance of the service being performed.

- Installation will be performed during normal weekday working hours.
- Adequate facilities for delivery, unloading, moving and staging/storing the product during the installation process shall be provided.
- Service work will shall not be hindered by other trades.
- Electric, heat, and adequate elevator service will be furnished without charge.
- The immediate installation area shall be complete and free of debris including the carpet/flooring before installation commences.
- Any work requiring a licensed electrician is the responsibility of the buyer.

Additional Charges May Apply For:

- 1) Orders of an aggregate quantity of 1 - 10 chairs, desks, files, peds - NTE \$300 fee per delivery.
- 2) Major Metro Markets and any non-ground floor installation: NTE 1% - 3.5% of list product value
 - Major Metro Markets include large population centers and urban environments.
- 3) Installation in a clinical/medical environment: NTE 1% - 3.5% of list product value
- 4) Special restrictions or limits established by local laws, ordinances or the directions of the buyer, including but not limited to restrictions on transportations of materials, street access to the job site and/or dock facilities: NTE 1% - 3.5% of list product value
- 5) Installations outside of a 50 mile radius of the servicing dealer: NTE 1% - 2% of list product value.
- 6) Local Prevailing Wage and/or Union Labor Rates

Any additional charges shall be quoted by the dealer and approved by the buyer prior to performance of the work.

NTE = Not To Exceed



County of Fairfax, Virginia

AMENDMENT

NOV 05 2018

AMENDMENT NO. 18

CONTRACT TITLE: Office Furniture and Related Services

CONTRACTOR

SUPPLIER CODE

CONTRACT NO.

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

1000011666

4400003403


By mutual agreement contract 4400003403 is amended as indicated below effective January 7, 2019.
The price adjustment will vary by product line, the following are expected as an average:

1. PRICE INCREASE:

<u>Product Line</u>	<u>Percent Increase</u>
Herman Miller	4.0%
Geiger	3.9%
Nemschoff	5.3%
Naughtone	2.0%

All other discounts, terms, and conditions remain the same.


Steve Pierson, CPPB
Contracts Manager


Cathy A. Muse, CPPO
Director/County Purchasing Agent

DISTRIBUTION:

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Tyler McCall – tmccall@uscommunities.org

Contractor: dave_gillman@hermanmiller.com
Contract Specialist – M. Blair
Asst. Contract Specialist - Team 2

Department of Procurement & Material Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013
Website: www.fairfaxcounty.gov/procurement
Phone (703) 324-3201, TTY: 711, Fax: (703) 324-3228



County of Fairfax, Virginia

AMENDMENT

OCT 17 2018

AMENDMENT NO. 17

CONTRACT TITLE: Office Furniture and Related Services

CONTRACTOR

SUPPLIER CODE

CONTRACT NO.

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

1000011666

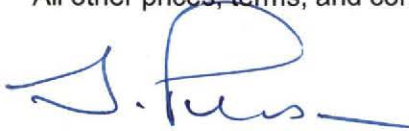
4400003403


By mutual agreement, contract 4400003403 is amended as indicated below, effective December 31, 2018.

DELETE PRODUCT:

SitOnIt Seating (SOI) product line

All other prices, terms, and conditions remain the same.


Steve Pierson, CPPB
Contracts Manager


Cathy A. Muse, CPPO
Director/County Purchasing Agent

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Tyler McCall – tmccall@uscommunities.org
Contractor – dave_gillman@hermanmiller.com
Contract Specialist – M. Blair
Asst. Contract Specialist - Team 2



County of Fairfax, Virginia

AMENDMENT

JUL 26 2018

AMENDMENT NO. 16

CONTRACT TITLE: Office Furniture and Related Services

CONTRACTOR

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

SUPPLIER CODE

1000011666

CONTRACT NO.

4400003403

By mutual agreement, contract 4400003403 is amended as indicated below, effective immediately.

ADD

New Products

Discounts

\$0-\$100,000 List

\$100,000 - \$400,000 List

	Dock	Inside	Basic Install	Expanded Install	Dock	Inside	Basic Install	Expanded Install
Cosm Chairs	51%	49%	48%	46%	53%	51%	50%	48%
Lino Chairs	51%	49%	48%	46%	53%	51%	50%	48%
Canvas Vista	69%	67%	64%	62%	71%	69%	66%	64%

All other discounts, terms, and conditions remain the same.

Steve Pierson, CPPB
Contracts Manager

Cathy A. Muse, CPPO
Director/County Purchasing Agent

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Tyler McCall – tmccall@uscommunities.org
Contractor – dave_gillman@hermanmiller.com
Contract Specialist – M. Blair
Asst. Contract Specialist - Team 2

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12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013
Website: www.fairfaxcounty.gov/procurement
Phone (703) 324-3201, **TTY:** 711, **Fax:** (703) 324-3228



County of Fairfax, Virginia

AMENDMENT

AMENDMENT NO. 15

MAR - 8 2018

CONTRACT TITLE: Office Furniture and Related Services

CONTRACTOR

SUPPLIER CODE

CONTRACT NO.

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

1000011666

4400003403

By mutual agreement, contract 4400003403 is amended as indicated below, effective immediately.

ADD

New Products

Discounts

	\$0-\$100,000 List				\$100,000 - \$400,000 List			
	Dock	Inside	Basic Install	Expanded Install	Dock	Inside	Basic Install	Expanded Install
Mora System	51%	49%	46%	44%	53%	51%	48%	46%

All other discounts, terms, and conditions remain the same.

Steve Pierson, CPPB
Contracts Manager

Cathy A. Muse, CPPO
Director/County Purchasing Agent

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Tyler McCall – tmccall@uscommunities.org
Contractor – dave_gillman@hermanmiller.com
Contract Specialist – G. Bright
Asst. Contract Specialist - Team 2

Department of Procurement & Material Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013
Website: www.fairfaxcounty.gov/procurement
Phone (703) 324-3201, **TTY:** 711, **Fax:** (703) 324-3228



County of Fairfax, Virginia

AMENDMENT

JAN 12 2018

AMENDMENT NO. 14

CONTRACT TITLE: Office Furniture and Related Services

CONTRACTOR

SUPPLIER CODE

CONTRACT NO.

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

1000011666

4400003403

By mutual agreement contract 4400003403 is amended as indicated below effective February 5, 2018.

1. PRICE ADJUSTMENT/INCREASE

The purpose of this amendment is to notify all users that Herman Miller Inc. is implementing a price list adjustment effective February 5, 2018. There is an overall average increase on the price list of 1.9%.

All other discounts, terms, and conditions remain the same.

Steve Pierson, CPPB
Contracts Manager

Cathy A. Muse, CPPO
Director/County Purchasing Agent

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Tyler McCall – tmccall@uscommunities.org

Contractor: dave_gillman@hermanmiller.com
Contract Specialist – G. Bright
Asst. Contract Specialist - Team 2



County of Fairfax, Virginia

AMENDMENT

AMENDMENT NO. 13

DEC 07 2017

CONTRACT TITLE: Office Furniture and Related Services

CONTRACTOR

SUPPLIER CODE

CONTRACT NO.

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

1000011666

4400003403

By mutual agreement, contract 4400003403 is amended as indicated below, effective immediately.

ADD


New Products

Discounts

	\$0-\$100,000 List				\$100,000 - \$400,000 List			
	Dock	Inside	Basic Install	Expanded Install	Dock	Inside	Basic Install	Expanded Install
Prospect Portfolio	51%	49%	46%	44%	53%	51%	48%	46%
Intent Solution	53%	51%	48%	46%	55%	53%	50%	48%

All other discounts, terms, and conditions remain the same.

 **Steve Pierson, CPPB**
Contracts Manager

 Cathy A. Muse, CPPO
Director/County Purchasing Agent

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Cathy Spaine/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Corey Imhoff –tmccall@uscommunities.org

Contractor – dave_gillman@hermanmiller.com
Contract Specialist – G. Bright
Asst. Contract Specialist - Team 2

Department of Procurement & Material Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013
Website: www.fairfaxcounty.gov/dpmm
Phone (703) 324-3201, TTY: 711, Fax: (703) 324-3228



County of Fairfax, Virginia

AMENDMENT

SEP 29 2017

AMENDMENT NO. 12

CONTRACT TITLE: Office Furniture and Related Services

CONTRACTOR

Herman Miller
855 East Main Ave.
Zealand, MI 49464

SUPPLIER CODE

1000011666

CONTRACT NO.

4400003403

By mutual agreement, Contract 4400003403 is renewed for three (3) years at existing prices, discounts, terms, and conditions, effective January 1, 2018, through December 31, 2020. There are no more renewal options remaining for this contract.

ACCEPTANCE:

BY:

Laura Benson
(Signature)

Director, Contracts
(Title)

LAURA BENSON
(Printed)

9.20.2017
(Date)

Cathy A. Muse
Cathy A. Muse, CPPO
Director/County Purchasing Agent

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Cathy Spaine/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Corey Imhoff – cimhoff@uscommunities.org
Contractor: dave_gillman@hermanmiller.com

Contract Specialist – G. Bright
Asst. Contract Specialist - Team 2

Department of Procurement & Material Management
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County of Fairfax, Virginia

AMENDMENT

AMENDMENT NO. 11

MAY 23

CONTRACT TITLE: Office Furniture and Related Services

CONTRACTOR

SUPPLIER CODE

CONTRACT

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

1000011666

4400003403

By mutual agreement contract 4400003403 is amended as indicated below effective immediate

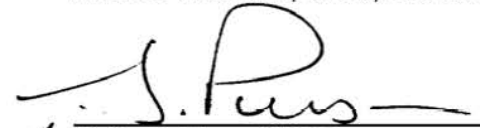
1. ADD

New Products

Discounts

	Dock	\$0-\$100,000 List				Dock	\$100,000 - \$400,000			
		Inside	Basic Install	Expanded Install			Inside	Basic Install	E Ir	
Verus Seating (Ergonomic chair)	51%	49%	48%	46%		53%	51%	50%	4	

All other discounts, terms, and conditions remain the same.


Cathy A. Muse, CPPO
Director/County Purchasing Agent

Steve Pierson, CPPB
Contracts Manager

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Cathy Spaine/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Corey Imhoff – cimhoff@uscommunities.org

Contractor
Contract Specialist – G. Bright
Asst. Contract Specialist – Tea

Department of Procurement & Material M
12000 Government Center Parkwa
Fairfax, VA

Website: www.fairfaxcounty.org

Phone (703) 324-3201, TTY: 1-800- 828-1140, Fax: (703)



County of Fairfax, Virginia

AMENDMENT

AMENDMENT NO. 10

JAN 3 12

CONTRACT TITLE: Office Furniture and Related Services

CONTRACTOR

SUPPLIER CODE

CONTRACT

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

1000011666

4400003403

By mutual agreement contract 4400003403 is amended as indicated below effective February 6

1. PRICE ADJUSTMENT/INCREASE

The purpose of this amendment is to notify all users that Herman Miller Inc. is implement price list adjustment effective February 6, 2016. There is an overall average increase on list of 1.96%.

2. ADD

New Products

Discounts

	Dock	\$0-\$100,000 List				Dock	\$100,000 - \$400			
		Inside	Basic Install	Expanded Install			Inside	Basic Install	Expanded Install	
Keyn Seating (Ergonomic side chair)	49%	47%	46%	44%		51%	49%	48%	46%	
Naughtone (Lounge Seating)	46%	44%	43%	41%		46%	44%	43%	41%	

All other discounts, terms, and conditions remain the same.

Cathy A. Muse, CPPO
Director/County Purchasing Agent

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Cathy Spaine/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Corey Imhoff – cimhoff@uscommunities.org

Contractor
Contract Specialist – G. Bright
Asst. Contract Specialist – Teal

Department of Purchasing & Supply Management
12000 Government Center Parkway
Fairfax, VA 22031

Website: www.fairfaxcounty.gov

Phone (703) 324-3201, TTY: 1-800- 828-1140, Fax: (703) 324-3202



County of Fairfax, Virginia

AMENDMENT

AMENDMENT NO. 9

OCT 03 2016

CONTRACT TITLE: Office Furniture and Related Services

CONTRACTOR

Herman Miller
855 East Main Ave.
Zealand, MI 49464

SUPPLIER CODE

1000011666

CONTRACT NO.

4400003403

By mutual agreement, Contract 4400003403 is renewed for one (1) year at existing prices, discounts, terms, and conditions, effective January 1, 2017, through December 31, 2017. This is the first of four (4) renewal options available.

ACCEPTANCE:

BY:

[Signature]
(Signature)

Director, Contracts
(Title)

LAURA BENSON
(Printed)

9.12.2016
(Date)

[Signature]
Cathy A. Muse, CPPO
Director/County Purchasing Agent

Steve Pierson, CPPB
Contracts Manager

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Cathy Spaine/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Corey Imhoff – cimhoff@uscommunities.org

Contractor
Contract Specialist – G. Bright
Asst. Contract Specialist - Team 2



County of Fairfax, Virginia

AMENDMENT

AUG 03 2016

AMENDMENT NO. 8

CONTRACT TITLE: Office Furniture and Related Services

CONTRACTOR

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

SUPPLIER CODE

1000011666

CONTRACT NO.

4400003403

By mutual agreement contract 4400003403 is amended is indicated below effective immediately.

1. ADD:

New Products

Discounts

	Dock	\$0-\$100,000 List			Dock	\$100,000 - \$400,000 List		
		Inside	Basic Install	Expanded Install		Inside	Basic Install	Expanded Install
Plex Lounge Furniture	46%	44%	43%	41%	48%	46%	45%	43%
Motia Sit-To-Stand Tables	67%	65%	62%	60%	69%	67%	64%	62%

All other discounts, terms, and conditions remain the same.

Cathy A. Muse, CPPO
Director/County Purchasing Agent

Steve Pierson, CPPB
Contracts Manager

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Cathy Spaine/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Corey Imhoff – cimhoff@uscommunities.org

Contractor
Contract Specialist – G. Bright
Asst. Contract Specialist - Team 2



County of Fairfax, Virginia

AMENDMENT

APR 20 2016

AMENDMENT NO. 7 Revised

CONTRACT TITLE: Office Furniture and Related Services

<u>CONTRACTOR</u>	<u>SUPPLIER CODE</u>	<u>CONTRACT NO.</u>
Herman Miller Inc. 855 East Main Ave. Zeeland, MI 49464	1000011666	4400003403

By mutual agreement contract 4400003403 is amended as indicated below effective May 1, 2016.

1. ADD

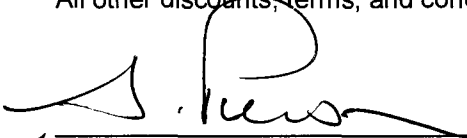
New Product

Discounts

	\$0-\$100,000 List				\$100,000 - \$400,000 List			
	Dock	Inside	Basic Install	Expanded Install	Dock	Inside	Basic Install	Expanded Install
Nemschoff Furniture	48%	47%	46%	45%	48%	47%	46%	45%

NOTE: This will include the full vocabulary of Nemschoff products *with the exception of Nemschoff furniture with motion mechanisms, e.g. reclining lounge chairs and similar furniture with a moving mechanical mechanism.*

All other discounts, terms, and conditions remain the same.


Cathy A. Muse, CPPO
Director/County Purchasing Agent

Steve Pierson, CPPB
Contracts Manager

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Cathy Spaine/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Corey Imhoff – cimhoff@uscommunities.org

Contractor
Contract Specialist – G. Bright
Asst. Contract Specialist - Team 2

Department of Purchasing & Supply Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013

Website: www.fairfaxcounty.gov/dpsm

Phone (703) 324-3201, **TTY:** 1-800- 828-1140, **Fax:** (703) 324-3228



County of Fairfax, Virginia

AMENDMENT

JAN 06 2016

AMENDMENT NO. 6

Revised

CONTRACT TITLE: Office Furniture and Related Services

CONTRACTOR

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

VENDOR CODE

1000011666

CONTRACT NO.

4400003403

By mutual agreement contract 4400003403 is amended as indicated below effective February 1, 2016.

1. PRICE ADJUSTMENT/DECREASE

The purpose of this amendment is to notify all users that Herman Miller Inc. is implementing a price list adjustment effective February 1, 2016. There is an overall average reduction on the price list of .45%

2. ADD

New Products

Discounts

	Dock	\$0-\$100,000 List			Dock	\$100,000 - \$400,000 List		
		Inside	Basic Install	Expanded Install		Inside	Basic Install	Expanded Install
Domino Storage (Storage Modules)	40%	38%	35%	33%	42%	40%	37%	35%
Ward Bennett (Classical Seating, Storage & Other Furniture)	43%	41%	38%	36%	45%	43%	40%	38%
Renew link (Benching System)	67%	65%	62%	60%	69%	67%	64%	62%
Exclave Performance Gear (Collaborative Furniture Product Line)	53%	51%	48%	46%	55%	53%	50%	48%

3. IMPROVED DISCOUNT (Sit-on-It Seating)

	Dock	Inside	Basic Install	Expanded Install
\$0 - \$15,000	54.50%	52.50%	51.50%	49.50%
\$15,001 - \$50,000	55.2%	53.25%	51.50%	50%
\$50,001 - \$100,000	56.25%	54.25%	52.25%	50.25%
\$100,001 - \$250,000	58.25%	56.25%	55%	53%
\$250,001+	Negotiated	Negotiated	Negotiated	Negotiated

Department of Purchasing & Supply Management

12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013

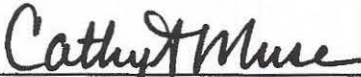
Website: www.fairfaxcounty.gov/dpsm

Phone (703) 324-3201, TTY: 1-800- 828-1140, Fax: (703) 324-3228

4. PRODUCTS DISCONTINUED

Sense Desking
My Studio environments
Q Tables
First Office Products

All other discounts, terms, and conditions remain the same.



Cathy A. Muse, CPPO
Director/County Purchasing Agent

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Cathy Spaine/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Corey Imhoff – cimhoff@uscommunities.org

Contractor
Contract Specialist – G. Bright
Asst. Contract Specialist - Team 2



County of Fairfax, Virginia

AMENDMENT

JUN 17 2015

AMENDMENT NO. 5

CONTRACT TITLE: Office Furniture and Related Services

CONTRACTOR

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

SUPPLIER CODE

1000011666

CONTRACT NO.

4400003403

By mutual agreement contract 4400003403 is amended as indicated below effective immediately.


Add:

New Products

Discounts

	Dock	\$0-\$100,000 List		Dock	\$100,000 - \$400,000 List	
		Inside	Basic Install		Inside	Basic Install
Canvas Dock	69%	67%	64%	71%	69%	66%
Metaform Portfolio	53%	51%	48%	55%	53%	50%
Compass System	54%	Neg.	Neg.	55%	Neg.	Neg.

All other discounts, terms, and conditions remain the same.


Cathy A. Muse, CPPO
Director/County Purchasing Agent

Steve Pierson, CPPB, VCO
Contracts Manager

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Cathy Spaine/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Corey Imhoff – cimhoff@uscommunities.org

Contractor
Contract Specialist – G. Bright
Asst. Contract Specialist - Team 2

Department of Purchasing & Supply Management

12000 Government Center Parkway, Suite 427

Fairfax, VA 22035-0013

Website: www.fairfaxcounty.gov/dpsm

Phone (703) 324-3201, TTY: 1-800- 828-1140, Fax: (703) 324-3681



County of Fairfax, Virginia

AMENDMENT

AMENDMENT NO. 4

JAN 20 2015

CONTRACT TITLE: Office Furniture and Related Services and Solutions

CONTRACTOR

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

SUPPLIER CODE

1000011666

CONTRACT NO.

4400003403

1. PRICE INCREASE

The purpose of this amendment is to notify all users that Herman Miller Inc. is implementing a price list adjustment of 1.7%, effective February 2, 2015. The new price list also includes new and refreshed fabrics, finishes and options.

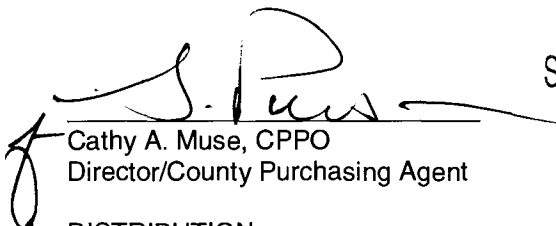
2. ADD

New Products

Discounts

	Dock	\$0-\$100,000 List			Dock	\$100,000 - \$400,000 List		
		Inside	Basic Install	Expanded Install		Inside	Basic Install	Expanded Install
Layout Studio (A Flexible Bench Solution)	51%	49%	46%	44%	53%	51%	48%	46%
AGL Tables (Conference Room Table)	40%	38%	37%	35%	42%	40%	39%	37%
Herman Miller Collection (A group of design oriented products for office and lounge areas)	40%	38%	37%	35%	42%	40%	39%	37%

All other terms and conditions remain the same.


Cathy A. Muse, CPPO
Director/County Purchasing Agent

Steve Pierson, CPPB, VCO
Contracts Manager

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. –Christine Covey/e
Facilities Management Dept. – Cathy Spaine/e
Facilities Management Dept. – Rhinda Edwards/e
U. S. Communities – Corey Imhoff – cimhoff@uscommunities.org

Contractor
Contract Specialist – G. Bright
Asst. Contract Specialist - Team 2

Department of Purchasing & Supply Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013

Website: www.fairfaxcounty.gov/dpsm

Phone (703) 324-3201, TTY: 1-800- 828-1140, Fax: (703) 324-3681



County of Fairfax, Virginia

AMENDMENT

AMENDMENT NO. 3

MAR 27 2014

CONTRACT TITLE: Office Furniture and Related Services

CONTRACTOR

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

SUPPLIER CODE

1000011666

CONTRACT NO.

4400003403

By mutual agreement contract 4400003403 is amended as indicated below effective immediately.


Add:

New Products

Discounts

	Dock	\$0-\$100,000 List			Dock	\$100,000 - \$400,000 List		
		Inside	Basic Install	Expanded Install		Inside	Basic Install	Expanded Install
Renew Sit-to-Stand	67%	65%	62%	60%	69%	67%	64%	62%
Locale	58%	56%	53%	51%	60%	58%	55%	53%
Public Office Landscape	54%	52%	49%	47%	56%	54%	51%	49%

All other discounts, terms, and conditions remain the same.


Cathy A. Muse, CPPO
Director/County Purchasing Agent

Steve Pierson, CPPB, VCO
Contracts Manager

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Cathy Spaine/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Corey Imhoff – cimhoff@uscommunities.org

Contractor
Contract Specialist – G. Bright
Asst. Contract Specialist - Team 2

Department of Purchasing & Supply Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013

Website: www.fairfaxcounty.gov/dpsm

Phone (703) 324-3201, TTY: 1-800- 828-1140, Fax: (703) 324-3681



County of Fairfax, Virginia

AMENDMENT

DEC 20 2013

AMENDMENT NO. 2

CONTRACT TITLE: Office Furniture and Related Services and Solutions

CONTRACTOR

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

SUPPLIER CODE

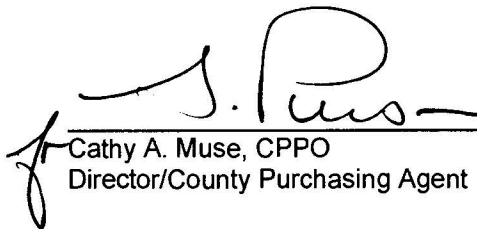
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CONTRACT NO.

4400003403

The purpose of this amendment is to notify all users that Herman Miller Inc. is implementing a price list adjustment of 2.6%, effective February 3, 2014. The new price list also includes new and refreshed fabrics, finishes and options.

All other terms and conditions remain the same.


Cathy A. Muse, CPPO
Director/County Purchasing Agent

Steve Pierson, CPPB, VCO
Contracts Manager

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Cathy Spaine/e
Facilities Management Dept. – Rhinda Edwards/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Corey Imhoff – cimhoff@uscommunities.org

Contractor
Contract Specialist – G. Bright
Asst. Contract Specialist - Team 2

Department of Purchasing & Supply Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013

Website: www.fairfaxcounty.gov/dpsm

Phone (703) 324-3201, TTY: 1-800- 828-1140, Fax: (703) 324-3681



County of Fairfax, Virginia

AMENDMENT

JUL 19 2013

AMENDMENT NO. 1

CONTRACT TITLE: Office Furniture and Related Services and Solutions

CONTRACTOR

Herman Miller Inc.
855 East Main Ave.
Zeeland, MI 49464

SUPPLIER CODE

1000011666

CONTRACT NO.

4400003403

By mutual agreement contract 4400003403 is amended as indicated below effective immediately. This change is for Fairfax County only.

Herman Miller Inc. is structured to sell their products through their distributors, therefore, Fairfax County is adding the following dealer to the contract. This dealer has been assigned their own contract number and supplier code.

This dealer is authorized to issue quotes, receive purchase orders, process, deliver and provide customer support in accordance with the discounts, terms, and conditions established with Herman Miller Inc.

Name of Dealer	Supplier Code	Contract Number
American Office of Gaithersburg Inc. 14801 Willard Road Chantilly, VA 20151 Contact: Denise Carlston, Director of Sales E-mail: dcarlston@americanoffice.com Telephone: 703-788-0800, ext. 237 Fax: 703-788-0805 Payment Terms: Net 30	1000000148	4400004122

This change in no way alters the responsibilities of Herman Miller, Inc. under the above referenced contract.

Cathy A. Muse, CPPO
Director/County Purchasing Agent

DISTRIBUTION

Department of Finance – Accounts Payable
Facilities Management Dept. – Bill Robinson/e
Facilities Management Dept. – Cathy Spaine/e
Facilities Management Dept. – Shirley Dowell/e
Facilities Management Dept. – Christine Covey/e
U. S. Communities – Corey Imhoff – cimhoff@uscommunities.org

Contractor
Contract Specialist – G. Bright
Asst. Contract Spec., Team 2

Department of Purchasing & Supply Management

12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013

Website: www.fairfaxcounty.gov/dpsm

Phone (703) 324-3201, TTY: 1-800- 828-1140, Fax: (703) 324-3681

**SUPPLEMENT TO COOPERATIVE AGREEMENT
CONTRACT BETWEEN THE CITY OF AUSTIN ("City")
AND**

**Shelton-Keller Group, Inc. ("SKG")
for**

**Office Furniture, Installation and Other Related Services for Austin Bergstrom
International Airport ("ABIA")
MA 8100 GA190000019**

This Contract is between Shelton-Keller Group, Inc. (SKG) having offices at 6301 E. Stassney Lane, Bldg 9-100, Austin, Texas 78744, and the City, a home-rule municipality incorporated by the State of Texas, and is effective on February 7, 2019 for the purchase of office furniture from the following cooperative programs: US Communities, Texas Multiple Awards Schedule (TXMAS), Texas SmartBuy, BuyBoard, GSA Advantage, National Joint Powers Alliance (NJPA) (now doing business as Sourcewell), and National IPA.

1.1 This Contract is composed of the following documents, in the following order of precedence:

- 1.1.1 This contract cover;
- 1.1.2 Exhibit A, Supplemental Terms;
- 1.1.3 Exhibit B, Contractor's Offer;
- 1.1.4 Exhibit C, Non-Discrimination and Non-Retaliation Certification;
- 1.1.5 Exhibit D, Non-Suspension or Debarment Certification;

1.2 Quantity. There is no minimum guaranteed quantity of goods or services to be purchased pursuant to this Contract.

1.3 Scope of Work.

1.3.1 Contractor Obligations. The Contractor shall fully and timely provide all deliverables described herein and in the Contractor's Offer in Exhibit B in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State and local laws, rules, and regulations.

1.3.2 Contractor shall deliver, install and set-up office furniture.

1.4 Term of Contract. The term of this contract shall be up to five (5) years.

1.5 Right to Assurance. Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

1.6 Default. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under the "Right to Assurance paragraph herein, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material

misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by Contractor to the City.

- 1.7 **Termination for Cause.** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.
- 1.8 **Termination Without Cause.** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.
- 1.9 **Fraud.** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.
- 1.10 **Compensation.** The Contractor shall be paid as indicated in Exhibit B upon successful completion of the Scope of Work as indicated Exhibit B, a total Not-to-Exceed amount of \$16,550,000.00, including all fees and expenses, for the initial Contract term and each approved extension option, to be shared by all Contractors.
- 1.11 **Cooperative Program Contracts.** Exhibit B shall refer to the Cooperative Program Contract for each Delivery Order. The Cooperative Program Contract shall be valid at the time that the Delivery Order is placed. The Contractor may offer the City products and services under this Contract from the following Cooperative Programs Contracts: US Communities, Texas Multiple Awards Schedule (TXMAS), Texas SmartBuy, BuyBoard, GSA Advantage, National Joint Powers Alliance (NJPA) (now doing business as Sourcwell), and National IPA. Any additional Cooperative Program Contracts shall be added through an amendment to Exhibit B. In the event that terms and conditions are not incorporated into or covered by the Cooperative Program Contract, then the City's Standard Definitions (Section 0100) and Standard Purchase Terms and Conditions (Section 0300) apply.

This Contract (including any Exhibits) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and

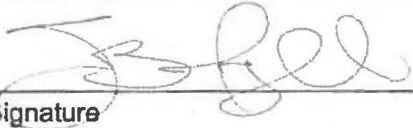
understandings, whether written or oral, relating to such subject matter. This Contract may be altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

In witness whereof, the City has caused a duly authorized representative to execute this Contract on the date set forth below.

SHELTON-KELLER GROUP, INC.

BARET MEAZELL

Printed Name of Authorized Person



Signature

CDD

Title

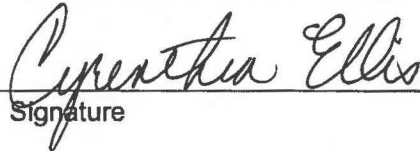
Feb 5, 2019

Date

CITY OF AUSTIN

Cyrenthia Ellis

Printed Name of Authorized Person



Signature

Procurement Manager

Title

2/12/19

Date

Exhibit A - Supplemental Terms

Exhibit B - Contractor's Offer

Exhibit C - Section 0800 Non-Discrimination and Non-Retaliation Certification

Exhibit D - Section 0805 Non-Suspension or Debarment Certification

Exhibit A
Supplemental Terms

1. **Designation of Key Personnel.** The Contractor's Point of Contact for this engagement shall be as specified in Exhibit A. The City's Point of Contract for the engagement shall be Cyrenthia Ellis; Phone: 512-974-1709; Email: cyrenthia.ellis@austintexas.gov.

2. **Invoices.**

2.1 Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number, the Department's Name, and the name of the point of contact for the Department. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. Invoices shall be mailed or emailed to the City's point of contact specified for each Delivery Order or Purchase Order.

Invoices shall be emailed to the email address below:

	City of Austin
Department	Department of Aviation
Attn:	Accounts Payable
Address	3600 Presidential Blvd. Suite 411
City, State Zip Code	Austin, Texas 78719
	abia.invoices@austintexas.gov

2.2 Invoices shall include the Current Commercial Price List and the Discount from the Current Commercial Price List. Fees for installation, delivery and set-up shall be listed on a separate line item. Time billed for labor shall be limited to hours actually performed at the work site.

2.3 Invoices shall include information identifying if the furniture items or parts purchased are new, used or refurbished.

2.4 Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual costs without markup.

2.5 Federal Excise Taxes, State taxes, or City sales tax must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

Exhibit A
Supplemental Terms

3. **Payment.**

3.1 All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.

3.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

3.3 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

3.3.1 delivery of defective or non-conforming deliverables by the Contractor;

3.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;

3.3.3 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

3.3.4 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

3.3.5 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or

3.3.6 failure of the Contractor to comply with any material provision of the Contract Documents.

3.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

3.5 Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

4. **Non-Appropriation.** The awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to

Exhibit A Supplemental Terms

the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non- or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

5. Security

5.1 **Airport Security**: Access to the premises must be strictly controlled. Officers, employees, or agents of the Contractor shall never enter a restricted or operational area of the airport without the express permission of ABIA or any governmental bodies having jurisdiction. Contractor assumes full liability from any such unauthorized incursions.

5.2 While performing work on City property, Contractor's employees shall wear uniforms with the Contractor's name clearly displayed on the shirt and/or company issued photo identification badges at all times when in the building. Failure to do so may be cause for removal of Contractor Personnel from the worksite, without regard to Contractor's schedule.

5.3 The Contractor shall comply with all other security requirements imposed by the City and shall ensure that all employees and subcontractors are kept fully informed as to these requirements.

6. Equal Opportunity

6.1 **Equal Employment Opportunity**: No Contractor or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit C. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

6.2 **Americans with Disabilities Act (ADA) Compliance**: No Contractor, or Contractor's agent shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

7. Audits and Records

7.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

Exhibit A Supplemental Terms

7.2 Records Retention:

7.2.1 For purposes of this subsection, a Record means all books, accounts, reports, files, and other data recorded or created by a Contractor in fulfillment of the contract.

7.2.2 All Records are the property of the City. The Contractor may not dispose of or destroy a Record without City authorization and shall deliver the Records, in all requested formats and media, along with all finding aids and metadata, to the City at no cost when:

7.2.2.1 requested by a director or an authorized City employee; or

7.2.2.2 the contract is completed or terminated.

7.2.3 The Contractor shall retain all Records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer.

7.3 The Contractor shall include sections A and B above in all subcontractor agreements entered into in connection with this Contract.

8. Interested Parties Disclosure

As a condition to entering the Contract, the Business Entity constituting the Offeror must provide the following disclosure of Interested Parties to the City prior to the award of a contract with the City on Form 1295 "Certificate of Interested Parties" as prescribed by the Texas Ethics Commission for any contract award requiring council authorization. The Certificate of Interested Parties Form must be completed on the Texas Ethics Commission website, printed, and signed in front of a notary by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury. The City will submit the "Certificate of Interested Parties" to the Texas Ethics Commission within 30 days of receipt from the successful Offeror. The Offeror is reminded that the provisions of Local Government Code 176, regarding conflicts of interest between the bidders and local officials remains in effect. Link to Texas Ethics Commission Form 1295 process and procedures below:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

9. **Insurance:** The following insurance requirements apply.

9.1 General Requirements.

9.1.1 The Contractor shall at a minimum carry insurance in the types and amounts indicated herein for the duration of the Contract and during any warranty period.

9.1.2 The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to Contract execution and within fourteen (14) calendar days after written request from the City.

Exhibit A
Supplemental Terms

9.1.3 The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

9.1.4 The Contractor shall not commence work until the required insurance is obtained and has been reviewed by City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

9.1.5 The City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

9.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

9.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be emailed to the City upon request and updates shall be mailed to the following address:

City of Austin
Purchasing Office
P. O. Box 1088
Austin, Texas 78767

9.1.8 The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.

9.1.9 If insurance policies are not written for amounts specified in Paragraph 6.1.2, Specific Coverage Requirements, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

9.1.10 The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

9.1.11 The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

9.1.12 The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

Exhibit A
Supplemental Terms

9.1.13 The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

9.1.14 The Contractor shall endeavor to provide the City thirty (30) calendar days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

9.2 **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

9.2.1 **Commercial General Liability Insurance.** The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries). The policy shall contain the following provisions and endorsements.

9.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

9.2.1.2 Contractor/Subcontracted Work.

9.2.1.3 Products/Completed Operations Liability for the duration of the warranty period.

9.2.1.4 Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage.

9.2.1.5 Thirty (30) calendar days' Notice of Cancellation, Endorsement CG 0205, or equivalent coverage.

9.2.1.6 The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.

9.2.2 **Business Automobile Liability Insurance.** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements:

9.2.2.1 Waiver of Subrogation, Endorsement CA0444, or equivalent coverage.

9.2.2.2 Thirty (30) calendar days' Notice of Cancellation, Endorsement CA0244, or equivalent coverage.

9.2.2.3 The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.

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Supplemental Terms

9.2.3 **Worker's Compensation and Employers' Liability Insurance.** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee. The policy shall contain the following provisions and endorsements:

9.2.3.1 The Contractor's policy shall apply to the State of Texas.

9.2.3.2 Waiver of Subrogation, Form WC420304, or equivalent coverage.

9.2.3.3 Thirty (30) calendar days' Notice of Cancellation, Form WC420601, or equivalent coverage.

9.3 **Endorsements.** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

10. **Contractor to Package Deliverables.** The Contractor will package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price. Unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.
11. **Shipment Under Reservation Prohibited.** The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.
12. **Title & Risk of Loss.** Title to and risk of loss of the deliverables shall pass to the City only when the City receives and accepts the deliverables.
13. **Right of Inspection and Rejection.** The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.
14. **No Replacement of Defective Tender.** Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any

Exhibit A Supplemental Terms

non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.

15. **Special Tools & Test Equipment.** If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.
16. **Acceptance of Incomplete or Non-Conforming Deliverables.** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.
17. **Delays.** The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in Contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

18. **Warranty-Price.**

- 18.1 The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.
- 18.2 The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

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- 18.3 In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.
19. **Warranty – Services.** The Contractor warrants and represents that all services to be provided to the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.
- 19.1 The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
- 19.2 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the acceptance date. If during the warranty period, one or more of the warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
- 19.3 If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.
20. **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:
- | | |
|--|---|
| To the City: | To the Contractor: |
| City of Austin, Purchasing Office | Workplace Resource, LLC |
| ATTN: Kim Larsen, Contract Administrator | ATTN: Shea McClanahan, Business Development |
| P O Box 1088 | 1717 W. 6 th St., Suite 190 |
| Austin, TX 78767 | Austin, TX 78703 |

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21. **Confidentiality.** In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.
22. **Advertising.** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.
23. **No Contingent Fees.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.
24. **Gratuities.** The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.
25. **Prohibition Against Personal Interest in Contracts.** No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any

Exhibit A
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violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

26. **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.
27. **Assignment-Delegation.** The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third-party beneficiaries to the Contract.
28. **Waiver.** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.
29. **Modifications.** The Contract can be modified or amended only in writing signed by both parties. No pre-printed or similar terms on any Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.
30. **Interpretation.** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.
31. **Dispute Resolution.**
- 31.1 If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt

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Supplemental Terms

in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

- 31.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.
32. **Jurisdiction And Venue.** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

**Exhibit B
Contractor's Offer**

I. **Arconas.** This Contract is between Shelton-Keller Group, Inc. (SKG) having offices at 6301 East Stassney Lane, Bldg 9-100, Austin, Texas 78744, and the City, a home-rule municipality incorporated by the State of Texas, and is effective on February 7, 2019 for the purchase of Arconas furniture from TXMAS-18-7106. Solicitation requirements are met by using the Contractor's TXMAS-18-7106 contract.

1.1 This Contract is composed of the following documents, in the following order of precedence:

- 1.1.1 This contract cover;
- 1.1.2 Contractor's Offer;
- 1.1.3 The State of Texas, Texas Multiple Award Schedule (TXMAS) Contract Number TXMAS-18-7106, composed of the following documents:
 - 1.1.3.1 Acceptance Agreement
 - 1.1.3.2 Memorandum of Negotiation
 - 1.1.3.3 Notice of Award
 - 1.1.3.4 Administration Agreement
 - 1.1.3.5 Arconas Price Sheet dated April 2017

1.2 Term of Contract. The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of ten (10) months and may be extended thereafter for up to one (1) additional twelve (12)-month period at the City's sole option, subject to the extension of the cooperative contract (as referenced in Section 1.1.6 above) and approval of the Contractor and the City Purchasing Officer or his designee. In no event shall the term extend beyond 3/22/2022, the termination date of the TXMAS Contract No. TXMAS-18-7106.

1.4.1 If the City exercises any extension option, all terms, conditions, and provisions of the Contract shall remain in effect for that extension period, subject only to any economic price adjustment otherwise allowed under the Contract.

1.2.1.1 Upon expiration of the initial term or any period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary for the City to re-solicit and/or complete the deliverables due under this Contract (not exceed 120 calendar days unless mutually agreed on in writing).

1.3 Compensation. The Contractor shall be paid as indicated in Exhibit B upon successful completion of the Scope of Work as indicated in Section 1.3, a total Not-to-Exceed amount of \$16,517,291.00, including all fees and expenses, for the initial Contract term and each approved extension option, to be shared by all Contractors.

1.4 Offer. Offeror should submit the following information and documentation with the Offer:

1.4.1 Contact Information

- 1.4.1.1 Name of Contractor's Point of Contact: Megan Williams
- 1.4.1.2 Phone Number of Contractor's Point of Contact: (512) 481-1500
- 1.4.1.3 Email Address of Contractor's Point of Contact: mwilliams@skgtexas.com
- 1.4.1.4 Name of Cooperative Furniture Contracts with copy of each Cooperative Contract attached: TXMAS contract TXMAS-18-7106

Exhibit C

City of Austin, Texas NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION

**City of Austin, Texas
Equal Employment/Fair Housing Office**

To: City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Non-Discrimination and Non-Retaliation Policy set forth below.

City of Austin
Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination and non-retaliation employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE THE CITY A COPY OF THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICIES ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICIES, AS SET FORTH HEREIN, OR THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 and the City's Non-Retaliation Policy may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4 and the Non-Retaliation Policy.

Term:

The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor's separate conforming policy, which the Contractor has executed and filed with the City, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payment, the Contractor's Non-

Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 29 day of June, 2018

CONTRACTOR
Authorized
Signature



Title

CEO

Exhibit D

**City of Austin, Texas
Section 0805
NON-SUSPENSION OR DEBARMENT CERTIFICATION**

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name:

SHELTON KEUER Group

Signature of Officer or
Authorized
Representative:

Elizabeth Goff McMillan Date: 6/29/18

Printed Name:

ELIZABETH GOFF McMILLAN

Title

CEO

Exhibit B
Contractor's Offer

1.4.2 Certifications

Provide a list of your lines of furniture and with their contract applicable certifications. Also, please provide a copy of the certifications that you possess for those lines. Examples of compliant certifications include: BIFMA Level Certification with 7.6.1 Credit, Cradle to Cradle (C2C) Gold, Greenguard, Greenguard Gold, SCS Indoor Air Advantage and SCS Indoor Air Advantage Gold. Proof of ISO Guide 65 Accreditation must be provided for any certification organization not previously listed.

1.5 Requirements. Contractor shall comply with the following requirements for the resulting Contract:

1.5.1 Sustainable Standards

Unless waived by the Purchasing Office in writing, Contractor shall only provide furniture that is certified to meet ANSI/BIFMA Furniture Emissions Standard X7.1-2011 and/or ANSI/BIFMA e3-2012/2014 Furniture Sustainability Standard with credit 7.6.1. Updated versions of these standards will also be accepted.

1.5.2 Packaging

It is preferred that Contractor use packaging that does not contain packaging inks, dyes, pigments, adhesives, stabilizers, and additives with levels of lead, cadmium, mercury or hexavalent chromium in packaging inks, dyes, pigments, adhesives, stabilizers, and additives equal to or greater than 100 parts per million, which is consistent with packaging statutes adopted by 19 U.S. states. The following exceptions apply to this heavy metal threshold recommendation for packaging:

- 1.6.2.1 Packaging made from recycled materials.
- 1.6.2.2 Packaging that is essential to the protection, safe handling, or function of the package's contents (e.g., medical product and devices).
- 1.6.2.3 Packages and packaging components for which there is no feasible alternative.
- 1.6.2.4 Reusable packaging for products that are subject to other federal or state health, safety, transportation, or disposal requirements (i.e., hazardous waste).
- 1.6.2.5 Packaging having a controlled distribution and reuse (i.e., beverage containers subject to mandatory deposit requirements).
- 1.6.2.6 Packaging or packaging component that is glass or ceramic where the decoration has been vitrified and when tested, and meets specific requirements.

1.5.3 Disposal of Replaced Furniture

If so specified by the departmental contact responsible for the purchase of new furniture, Contractor shall provide pick up and recycling services for any furniture being replaced. Contractor should specify whether it participates in a buy-back/take-back or leasing program for furniture purchased through the Contract.

1.5.4 Reporting

Contractor shall provide evidence of the applicable third-party certification meeting ANSI/BIFMA Furniture Emissions Standard X7.1-2011 and/or ANSI/BIFMA e3-2012/2014 Furniture Sustainability Standard with credit 7.6.1. prior to contract award and if requested by the City for specific orders and invoices.

Exhibit B
Contractor's Offer

Contractor shall submit a report of all orders under the resulting contract on a quarterly and annual basis in an electronic format by email to the City of Austin's Point of Contact. The report shall include:

- 1.6.4.1 Date of Order
- 1.6.4.2 Ordering Department / #
- 1.6.4.3 Line item description
- 1.6.4.4 Amount of Order (\$)
- 1.6.4.5 ANSI / BIFMA X7.1 or Higher Certified (yes/no)
- 1.6.4.6 Items removed (including packaging) and whether they were recycled, reused or sent to a landfill

1.5.5 Waivers

The Purchasing Office may waive the ANSI/BIFMA X7.1 standard requirement on a case by case basis. An example of a circumstance in which a waiver may be granted is if there is an ADA requirement that cannot be met using furniture that meets the X7.1 standard or if there is a modification to an existing furniture installation that is determined to be not economically feasible and/or is incompatible with all ANSI/BIFMA X7.1 standard.

1.5.6 Kick-Off Meeting

Contractor shall attend a Kick-Off Meeting with the City, either in person or on the phone, at a date to be determined by the City. The meeting is to review contract terms, conditions and any other relevant matters.



**Exhibit B
Contractor's Offer**

II. Knoll. This Contract is between Shelton-Keller Group, Inc. (SKG) having offices at 6301 East Stassney Lane, Bldg 9-100, Austin, Texas 78744, and the City, a home-rule municipality incorporated by the State of Texas, and is effective on February 7, 2019 for the purchase of Knoll furniture from US Communities contract 4400003404. Solicitation requirements are met by using the Contractor's US Communities 4400003404 contract.

2.1 This Contract is composed of the following documents, in the following order of precedence:

- 2.1.1 This contract cover;
- 2.1.2 Contractor's Offer;
- 2.1.3 US Communities contract 4400003404, composed of the following documents:
 - 2.1.3.1 Amendments 1 - 22
 - 2.1.3.2 Knoll, Inc. Price Sheet dated 2/15/18
 - 2.1.3.3 Acceptance Agreement dated October 10, 2012
 - 2.1.3.4 Notice of Award dated October 10, 2012
 - 2.1.3.5 Administration Agreement dated October 10, 2012
 - 2.1.3.6 Memorandum of Negotiation dated October 9, 2012

2.2 Term of Contract. The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of eleven (11) months. In no event shall the term extend beyond December 31, 2020, the termination date of the US Communities contract 4400003404.

- 2.2.1 If the City exercises any extension option, all terms, conditions, and provisions of the Contract shall remain in effect for that extension period, subject only to any economic price adjustment otherwise allowed under the Contract.
- 2.2.2 Upon expiration of the initial term or any period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary for the City to re-solicit and/or complete the deliverables due under this Contract (not exceed 120 calendar days unless mutually agreed on in writing).

2.3 Compensation. The Contractor shall be paid as indicated in Exhibit B upon successful completion of the Scope of Work as indicated in Section 1.3, a total Not-to-Exceed amount of \$16,517,291.00, including all fees and expenses, for the initial Contract term and each approved extension option, to be shared by all Contractors.

2.4 Offer. Offeror should submit the following information and documentation with the Offer:

2.4.1 Contact Information

- 2.4.1.1 Name of Contractor's Point of Contact: Megan Williams
- 2.4.1.2 Phone Number of Contractor's Point of Contact: (512) 481-1500
- 2.4.1.3 Email Address of Contractor's Point of Contact: mwilliams@skgtexas.com
- 2.4.1.4 Name of Cooperative Furniture Contracts with copy of each Cooperative Contract attached: US Communities 4400003404

2.4.2 Certifications

Provide a list of your lines of furniture and with their contract applicable certifications. Also, please provide a copy of the certifications that you possess for those lines. Examples of compliant certifications include: BIFMA Level Certification with 7.6.1 Credit, Cradle to Cradle (C2C) Gold, Greenguard, Greenguard Gold, SCS Indoor Air Advantage and SCS Indoor Air

Exhibit B
Contractor's Offer

Advantage Gold. Proof of ISO Guide 65 Accreditation must be provided for any certification organization not previously listed.

2.5 Requirements. Contractor shall comply with the following requirements for the resulting Contract:

2.5.1 Sustainable Standards

Unless waived by the Purchasing Office in writing, Contractor shall only provide furniture that is certified to meet ANSI/BIFMA Furniture Emissions Standard X7.1-2011 and/or ANSI/BIFMA e3-2012/2014 Furniture Sustainability Standard with credit 7.6.1. Updated versions of these standards will also be accepted.

2.5.2 Packaging

It is preferred that Contractor use packaging that does not contain packaging inks, dyes, pigments, adhesives, stabilizers, and additives with levels of lead, cadmium, mercury or hexavalent chromium in packaging inks, dyes, pigments, adhesives, stabilizers, and additives equal to or greater than 100 parts per million, which is consistent with packaging statutes adopted by 19 U.S. states. The following exceptions apply to this heavy metal threshold recommendation for packaging:

- 1.6.2.1 Packaging made from recycled materials.
- 1.6.2.2 Packaging that is essential to the protection, safe handling, or function of the package's contents (e.g., medical product and devices).
- 1.6.2.3 Packages and packaging components for which there is no feasible alternative.
- 1.6.2.4 Reusable packaging for products that are subject to other federal or state health, safety, transportation, or disposal requirements (i.e., hazardous waste).
- 1.6.2.5 Packaging having a controlled distribution and reuse (i.e., beverage containers subject to mandatory deposit requirements).
- 1.6.2.6 Packaging or packaging component that is glass or ceramic where the decoration has been vitrified and when tested, and meets specific requirements.

2.5.3 Disposal of Replaced Furniture

If so specified by the departmental contact responsible for the purchase of new furniture, Contractor shall provide pick up and recycling services for any furniture being replaced. Contractor should specify whether it participates in a buy-back/take-back or leasing program for furniture purchased through the Contract.

2.5.4 Reporting

Contractor shall provide evidence of the applicable third-party certification meeting ANSI/BIFMA Furniture Emissions Standard X7.1-2011 and/or ANSI/BIFMA e3-2012/2014 Furniture Sustainability Standard with credit 7.6.1. prior to contract award and if requested by the City for specific orders and invoices.

Contractor shall submit a report of all orders under the resulting contract on a quarterly and annual basis in an electronic format by email to the City of Austin's Point of Contact. The report shall include:

- 1.6.4.1 Date of Order
- 1.6.4.2 Ordering Department / #
- 1.6.4.3 Line item description



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Contractor's Offer

- 1.6.4.4 Amount of Order (\$)
- 1.6.4.5 ANSI / BIFMA X7.1 or Higher Certified (yes/no)
- 1.6.4.6 Items removed (including packaging) and whether they were recycled, reused or sent to a landfill

2.5.5 Waivers

The Purchasing Office may waive the ANSI/BIFMA X7.1 standard requirement on a case by case basis. An example of a circumstance in which a waiver may be granted is if there is an ADA requirement that cannot be met using furniture that meets the X7.1 standard or if there is a modification to an existing furniture installation that is determined to be not economically feasible and/or is incompatible with all ANSI/BIFMA X7.1 standard.

2.5.6 Kick-Off Meeting

Contractor shall attend a Kick-Off Meeting with the City, either in person or on the phone, at a date to be determined by the City. The meeting is to review contract terms, conditions and any other relevant matters.

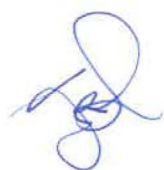


Exhibit B
Contractor's Offer

III. Mayline. This Contract is between Shelton-Keller Group, Inc. (SKG) having offices at 6301 East Stassney Lane, Bldg 9-100, Austin, Texas 78744, and the City, a home-rule municipality incorporated by the State of Texas, and is effective on February 7, 2019 for the purchase of Mayline furniture from The Cooperative Purchasing Network (TCPN) Region 4 Education Service Center (TCPN acquired by National Intergovernmental Purchasing Alliance (NIPA), now a subsidiary of Omnia Partners) contract R142211. Solicitation requirements are met by using the Contractor's TCPN R142211 contract.

3.1 This Contract is composed of the following documents, in the following order of precedence:

- 3.1.1 This contract cover;
- 3.1.2 Contractor's Offer;
- 3.1.3 TCPN contract R142211, composed of the following documents:
 - 3.1.3.1 NIPA Renewal Award of Contract R142211 dated November 1, 2017
 - 3.1.3.2 Notice of Material Change to the Vendor Contract dated September 26, 2016
 - 3.1.3.3 Region 4 Education Service Center Contract and Signature Form dated February 24, 2015
 - 3.1.3.4 Notice of Award Letter TCPN Contract R142211 dated February 27, 2015
 - 3.1.3.5 Mayline Price Sheet dated 2019

3.2 Term of Contract. The Contract shall commence upon execution, unless otherwise specified, and shall remain in effect for an initial term of three (3) months and may be extended thereafter for up to one (1) additional twelve (12)-month period at the City's sole option, subject to the extension of the cooperative contract (as referenced in Section 1.1.6 above) and approval of the Contractor and the City Purchasing Officer or his designee. In no event shall the term extend beyond April 2020, the termination date of the TCPN contract R142211.

- 3.2.1 If the City exercises any extension option, all terms, conditions, and provisions of the Contract shall remain in effect for that extension period, subject only to any economic price adjustment otherwise allowed under the Contract.
- 3.2.2 Upon expiration of the initial term or any period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary for the City to re-solicit and/or complete the deliverables due under this Contract (not exceed 120 calendar days unless mutually agreed on in writing).

3.3 Compensation. The Contractor shall be paid as indicated in Exhibit B upon successful completion of the Scope of Work as indicated in Section 1.3, a total Not-to-Exceed amount of \$16,517,291.00, including all fees and expenses, for the initial Contract term and each approved extension option, to be shared by all Contractors.

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- 3.4.1.4 Name of Cooperative Furniture Contracts with copy of each Cooperative Contract attached: TCPN R142211

Exhibit B
Contractor's Offer

3.4.2 Certifications

Provide a list of your lines of furniture and with their contract applicable certifications. Also, please provide a copy of the certifications that you possess for those lines. Examples of compliant certifications include: BIFMA Level Certification with 7.6.1 Credit, Cradle to Cradle (C2C) Gold, Greenguard, Greenguard Gold, SCS Indoor Air Advantage and SCS Indoor Air Advantage Gold. Proof of ISO Guide 65 Accreditation must be provided for any certification organization not previously listed.

3.5 Requirements. Contractor shall comply with the following requirements for the resulting Contract:

3.5.1 Sustainable Standards

Unless waived by the Purchasing Office in writing, Contractor shall only provide furniture that is certified to meet ANSI/BIFMA Furniture Emissions Standard X7.1-2011 and/or ANSI/BIFMA e3-2012/2014 Furniture Sustainability Standard with credit 7.6.1. Updated versions of these standards will also be accepted.

3.5.2 Packaging

It is preferred that Contractor use packaging that does not contain packaging inks, dyes, pigments, adhesives, stabilizers, and additives with levels of lead, cadmium, mercury or hexavalent chromium in packaging inks, dyes, pigments, adhesives, stabilizers, and additives equal to or greater than 100 parts per million, which is consistent with packaging statutes adopted by 19 U.S. states. The following exceptions apply to this heavy metal threshold recommendation for packaging:

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If so specified by the departmental contact responsible for the purchase of new furniture, Contractor shall provide pick up and recycling services for any furniture being replaced. Contractor should specify whether it participates in a buy-back/take-back or leasing program for furniture purchased through the Contract.

3.5.4 Reporting

Contractor shall provide evidence of the applicable third-party certification meeting ANSI/BIFMA Furniture Emissions Standard X7.1-2011 and/or ANSI/BIFMA e3-2012/2014 Furniture Sustainability Standard with credit 7.6.1. prior to contract award and if requested by the City for specific orders and invoices.

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Contractor's Offer

Contractor shall submit a report of all orders under the resulting contract on a quarterly and annual basis in an electronic format by email to the City of Austin's Point of Contact. The report shall include:

- 1.6.4.1 Date of Order
- 1.6.4.2 Ordering Department / #
- 1.6.4.3 Line item description
- 1.6.4.4 Amount of Order (\$)
- 1.6.4.5 ANSI / BIFMA X7.1 or Higher Certified (yes/no)
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3.5.5 Waivers

The Purchasing Office may waive the ANSI/BIFMA X7.1 standard requirement on a case by case basis. An example of a circumstance in which a waiver may be granted is if there is an ADA requirement that cannot be met using furniture that meets the X7.1 standard or if there is a modification to an existing furniture installation that is determined to be not economically feasible and/or is incompatible with all ANSI/BIFMA X7.1 standard.

3.5.6 Kick-Off Meeting

Contractor shall attend a Kick-Off Meeting with the City, either in person or on the phone, at a date to be determined by the City. The meeting is to review contract terms, conditions and any other relevant matters.



GOAL DETERMINATION REQUEST FORM

Buyer Name/Phone	Kim Larsen/42261	PM Name/Phone	Valerie Slaughter/512-530-6327
Sponsor/User Dept.	8100 Aviation	Sponsor Name/Phone	Name/Phone
Solicitation No	N/A / 128693	Project Name	Furniture for ABIA Terminal and Offices
Contract Amount	\$16,520,000/5 year	Ad Date (if applicable)	N/A
Procurement Type			
<input type="checkbox"/> AD – CSP <input type="checkbox"/> AD – CM@R <input type="checkbox"/> AD – Design Build <input type="checkbox"/> AD – Design Build Op Maint <input type="checkbox"/> AD – JOC <input type="checkbox"/> IFB – Construction <input type="checkbox"/> IFB – IDIQ <input type="checkbox"/> PS – Project Specific <input type="checkbox"/> PS – Rotation List <input type="checkbox"/> Nonprofessional Services <input type="checkbox"/> Commodities/Goods <input checked="" type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Critical Business Need <input type="checkbox"/> Interlocal Agreement <input type="checkbox"/> Ratification <input type="checkbox"/> Sole Source*			
Provide Project Description**			
Airport terminal and office furniture for 4 new and renovated buildings at ABIA through multiple cooperative agreements: Sourcewell (formerly NJPA), TXMAS, NIPA, US Communities.			
Project History: Was a solicitation previously issued; if so were goals established? Were subcontractors/subconsultants utilized? Include prior Solicitation No.			
No previous solicitation. Previously furniture was acquired through city-wide contract NC130000016 for various cooperative agreements - No goals.			
List the scopes of work (commodity codes) for this project. (Attach commodity breakdown by percentage; eCAPRIS printout acceptable)			
42500 Office Furniture 75%; 93145 Furniture Installation 25%			
Kim Larsen		11/16/2018	
Buyer Confirmation		Date	

* Sole Source must include Certificate of Exemption

**Project Description not required for Sole Source

FOR SMBR USE ONLY			
Date Received	11/16/2018	Date Assigned to BDC	11/19/2018
In accordance with Chapter 2-9(A-D)-19 of the Austin City Code, SMBR makes the following determination:			
<input type="checkbox"/> Goals	% MBE	% WBE	
<input type="checkbox"/> Subgoals	% African American	% Hispanic	
	% Asian/Native American	% WBE	
<input type="checkbox"/> Exempt from MBE/WBE Procurement Program		<input checked="" type="checkbox"/> No Goals	

GOAL DETERMINATION REQUEST FORM

This determination is based upon the following:

- | | |
|--|---|
| <input type="checkbox"/> Insufficient availability of M/WBEs | <input type="checkbox"/> No availability of M/WBEs |
| <input type="checkbox"/> Insufficient subcontracting opportunities | <input checked="" type="checkbox"/> No subcontracting opportunities |
| <input type="checkbox"/> Sufficient availability of M/WBEs | <input type="checkbox"/> Sufficient subcontracting opportunities |
| <input type="checkbox"/> Sole Source | <input type="checkbox"/> Other |

If Other was selected, provide reasoning:

MBE/WBE/DBE Availability

N/A

Subcontracting Opportunities Identified

N/A

Tracy Burkhalter

SMBR Staff

Signature/ Date

Tracy Burkhalter
 SMBR Director or Designee

11-19-18
 Date 11-19-18

Returned to/ Date: